Tab 1	**SB 28** by **Gibson (CO-INTRODUCERS) Bradley**; (Similar to CS/H 06507) Relief of Clifford Williams by the State of Florida

Tab 2	**SB 118** by **Gruters**; (Identical to CS/H 00131) Security in Trial Court Facilities

Tab 3	**CS/SB 218** by **HP, Harrell**; (Identical to H 00221) Licensure Requirements for Osteopathic Physicians

Tab 4	**CS/SB 434** by **ED, Montford**; (Identical to H 00957) Designation of School Grades

Tab 5	**CS/CS/SB 474** by **CM, IT, Albritton (CO-INTRODUCERS) Gruters**; (Compare to H 00077) Deregulation of Professions and Occupations

525354	A	S	RCS	AP, Albritton	Delete L.290 - 2102:	02/20 04:18 PM

Tab 6	**CS/SB 512** by **HP, Hutson**; (Compare to CS/H 00313) Nonembryonic Stem Cell Banks

315950	A	S	RCS	AP, Hutson	Delete L.169 - 236:	02/20 04:33 PM

Tab 7	**CS/SB 700** by **CJ, Perry (CO-INTRODUCERS) Pizzo, Braynon, Harrell, Gruters, Brandes, Bracy, Gibson**; (Similar to H 00615) Juvenile Diversion Program Expunction

439690	A	S	RCS	AP, Perry	Delete L.41 - 44:	02/20 03:57 PM

Tab 8	**CS/SB 712** by **CA, Mayfield (CO-INTRODUCERS) Harrell, Albritton**; (Compare to H 00153) Water Quality Improvements

413536	PCS	S	RCS	AP, AEG		02/20 04:30 PM
412518	PCS:D	S	RCS	AP, Mayfield	Delete everything after	02/20 04:30 PM
~~323376~~	A	S	WD	AP, Mayfield	Delete L.256 - 2003:	02/19 09:03 AM

Tab 9	**CS/CS/SB 810** by **IT, HP, Simmons (CO-INTRODUCERS) Flores, Mayfield**; (Compare to H 00151) Tobacco and Nicotine Products

811930	A	S	RCS	AP, Simmons	Delete L.39 - 330:	02/20 03:45 PM

Tab 10	**CS/SB 952** by **GO, Perry**; (Compare to CS/CS/H 00605) Senior Management Service Class

Tab 11	**SB 1002** by **Rodriguez**; (Identical to CS/H 00103) Subpoenas

Tab 12	**SB 1020** by **Bean**; (Similar to CS/H 00559) Institutional Formularies Established by Nursing Home Facilities

Tab 13	**CS/SB 1146** by **CJ, Brandes**; (Similar to H 01175) Special Risk Class of the Florida Retirement System

Tab 14	**CS/SB 1166** by **CM, Albritton**; (Similar to CS/H 00969) Broadband Internet Service

796936	A	S	L	RCS	AP, Albritton	Delete L.100:	02/20 04:21 PM

Tab 15	**CS/SB 1324** by **CF, Simpson**; (Compare to CS/H 00043) Child Welfare

336202	D	S	RCS	AP, Simpson	Delete everything after	02/21 01:01 PM

Tab 16	**SB 1326** by **Simpson**; (Compare to CS/H 07063) Department of Children and Families						
835096	D	S		RS	AP, Simpson	Delete everything after	02/28 10:04 AM
~~272028~~	AA	S		WD	AP, Simpson	btw L.219 - 220:	02/26 10:04 PM
756300	SD	S		RCS	AP, Simpson	Delete everything after	02/28 10:04 AM
Tab 17	**CS/SB 1394** by **IT, Simmons**; Fees/Tobacco Products						
874146	A	S	L	RCS	AP, Simmons	Delete L.13 - 36:	02/20 03:51 PM
Tab 18	**SB 1714** by **Bradley**; (Similar to H 01387) Sale of Surplus State-owned Office Buildings and Associated Nonconservation Lands						
Tab 19	**SB 7012** by **CF (CO-INTRODUCERS) Rouson**; (Compare to CS/H 00577) Mental Health						
195908	PCS	S		RCS	AP, AHS		02/28 10:47 AM
661030	A	S		RCS	AP, Book	Delete L.267 - 721:	02/28 10:47 AM
~~314786~~	A	S		WD	AP, Book	btw L.452 - 453:	02/27 02:44 PM
401064	A	S		RCS	AP, Book	btw L.757 - 758:	02/28 10:47 AM
Tab 20	**SB 7020** by **IS**; (Compare to CS/CS/CS/H 00395) Emergency Staging Areas						
Tab 21	**CS/SB 7040** by **IS, ED (CO-INTRODUCERS) Diaz**; (Compare to CS/H 07065) Implementation of the Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission						
390288	D	S		RCS	AP, Diaz	Delete everything after	02/21 02:13 PM
~~701724~~	AA	S		WD	AP, Thurston	Delete L.165 - 177:	02/21 02:13 PM
~~105554~~	AA	S		WD	AP, Thurston	btw L.481 - 482:	02/21 02:13 PM
502976	AA	S	L	RCS	AP, Diaz	Delete L.832:	02/21 02:13 PM
~~139528~~	A	S		WD	AP, Thurston	Delete L.258 - 270:	02/19 04:40 PM
~~730920~~	A	S		WD	AP, Thurston	btw L.573 - 574:	02/19 04:41 PM
~~593112~~	A	S		WD	AP, Thurston	btw L.573 - 574:	02/21 02:13 PM
Tab 22	**SPB 7066** by **AP**; Licensure Fees						

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Bradley, Chair
Senator Simpson, Vice Chair

MEETING DATE: Thursday, February 20, 2020
TIME: 9:00 a.m.—6:00 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 28** Gibson (Identical H 6507)	Relief of Clifford Williams by the State of Florida; Providing for the relief of Clifford Williams; providing an appropriation to compensate him for being wrongfully incarcerated for 43 years; directing the Chief Financial Officer to draw a warrant for the purchase of an annuity; providing that the act does not waive certain defenses or increase the state's limits of liability; providing that certain benefits are vacated upon specified findings, etc. SM JU 01/28/2020 Favorable ACJ 02/18/2020 Favorable AP 02/20/2020 Favorable	Favorable Yeas 20 Nays 0
	With subcommittee recommendation – Criminal and Civil Justice		
2	**SB 118** Gruters (Identical CS/H 131)	Security in Trial Court Facilities; Requiring sheriffs to coordinate with certain boards of county commissioners and chief judges to develop a comprehensive plan for security of trial court facilities; specifying that sheriffs and their deputies, employees, and contractors are officers of the court under specified circumstances, etc. JU 09/17/2019 Favorable ACJ 01/22/2020 Favorable AP 02/20/2020 Favorable	Favorable Yeas 18 Nays 0
	With subcommittee recommendation – Criminal and Civil Justice		
3	**CS/SB 218** Health Policy / Harrell (Identical H 221, Compare CS/CS/CS/H 713, CS/CS/S 230)	Licensure Requirements for Osteopathic Physicians; Revising licensure requirements for persons seeking licensure or certification as an osteopathic physician, etc. HP 10/22/2019 Fav/CS AP 02/20/2020 Favorable RC	Favorable Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 434** Education / Montford (Identical H 957)	Designation of School Grades; Revising the components on which a school's grade is based, etc. ED 12/09/2019 Fav/CS AED 01/28/2020 Not Considered AED 01/29/2020 Favorable AP 02/20/2020 Favorable With subcommittee recommendation - Education	Favorable Yeas 20 Nays 0
5	**CS/CS/SB 474** Commerce and Tourism / Innovation, Industry, and Technology / Albritton (Compare H 77, CS/CS/CS/H 115, CS/H 707, CS/CS/CS/H 713, H 1193, CS/S 66, CS/CS/S 230, CS/S 356, S 926, CS/S 1124)	Deregulation of Professions and Occupations; Citing this act as the "Occupational Freedom and Opportunity Act"; requiring the Department of Highway Safety and Motor Vehicles to waive the requirement to pass the Commercial Driver License Skills Tests for certain servicemembers and veterans; deleting the requirement that a yacht broker maintain a separate license for each branch office; specifying that the failure to repay certain student loans is not considered a failure to perform a statutory or legal obligation for which certain disciplinary action can be taken; revising licensure requirements for engineers who hold specified licenses in another state, etc. IT 01/21/2020 Fav/CS CM 02/04/2020 Fav/CS AP 02/20/2020 Fav/CS	Fav/CS Yeas 20 Nays 1
6	**CS/SB 512** Health Policy / Hutson (Compare CS/H 313)	Nonembryonic Stem Cell Banks; Providing that a nonembryonic stem cell bank that performs certain functions is deemed a clinic; prohibiting an entity other than certain nonembryonic stem cell banks and pharmacists from dispensing certain compounded drugs or products, with exceptions; prohibiting certain health care practitioners from practicing in a nonembryonic stem cell bank that is not licensed with the agency, etc. HP 02/04/2020 Fav/CS AP 02/20/2020 Fav/CS RC	Fav/CS Yeas 21 Nays 0
7	**CS/SB 700** Criminal Justice / Perry (Similar H 615, Compare H 1173, Linked S 1292)	Juvenile Diversion Program Expunction; Deleting a requirement that limits diversion program expunction to programs for misdemeanor offenses, etc. CJ 01/14/2020 Fav/CS ACJ 01/28/2020 Favorable AP 02/20/2020 Fav/CS With subcommittee recommendation – Criminal and Civil Justice	Fav/CS Yeas 19 Nays 0

A proposed committee substitute for the following bill (CS/SB 712) is available:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**CS/SB 712** Community Affairs / Mayfield (Compare H 153, H 405, H 1343, CS/H 1363, S 640, S 686, CS/S 1382)	Water Quality Improvements; Citing this act as the "Clean Waterways Act"; requiring the Department Health to provide a specified report to the Governor and the Legislature by a specified date; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection by a type two transfer by a specified date; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system remediation plans that meet certain requirements, etc. CA 12/09/2019 Fav/CS AEG 01/22/2020 Fav/CS AP 02/05/2020 Temporarily Postponed AP 02/06/2020 AP 02/20/2020 Fav/CS	Fav/CS Yeas 20 Nays 1
	With subcommittee recommendation - Agriculture, Environment, and General Government		
9	**CS/CS/SB 810** Innovation, Industry, and Technology / Health Policy / Simmons (Compare H 151, H 7089, S 694, Linked CS/S 1394)	Tobacco and Nicotine Products; Revising the age limits for permits relating to cigarettes; revising age and time restrictions relating to the prohibition of smoking and vaping near school property; revising prohibitions on the sale of tobacco products from vending machines; requiring that the age of persons purchasing tobacco products be verified under certain circumstances, etc. HP 01/21/2020 Fav/CS IT 02/03/2020 Fav/CS AP 02/20/2020 Fav/CS	Fav/CS Yeas 17 Nays 3
10	**CS/SB 952** Governmental Oversight and Accountability / Perry (Compare CS/CS/H 605)	Senior Management Service Class; Providing that participation in the Senior Management Service Class of the Florida Retirement System is compulsory for each appointed criminal conflict and civil regional counsel and specified staff of the regional counsel beginning on a specified date; authorizing members of the class to purchase and upgrade certain retirement credit, etc. GO 01/21/2020 Fav/CS CJ 02/04/2020 Favorable AP 02/20/2020 Favorable	Favorable Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SB 1002** Rodriguez (Identical CS/H 103)	Subpoenas; Revising the definition of "properly served"; authorizing an applicant to petition a court to compel compliance with a subpoena; authorizing a court to address noncompliance as indirect criminal contempt and impose a daily fine for a specified amount of time, etc. JU 01/15/2020 Favorable ACJ 01/28/2020 Favorable AP 02/20/2020 Favorable With subcommittee recommendation – Criminal and Civil Justice	Favorable Yeas 18 Nays 0
12	**SB 1020** Bean (Similar CS/H 559)	Institutional Formularies Established by Nursing Home Facilities; Authorizing a nursing home facility to establish and implement an institutional formulary; requiring a nursing home facility to maintain written policies and procedures for the institutional formulary; authorizing a pharmacist to therapeutically substitute medicinal drugs under an institutional formulary established by a nursing home facility, under certain circumstances, etc. HP 01/14/2020 Favorable AHS 01/28/2020 Temporarily Postponed AHS 01/29/2020 Favorable AP 02/20/2020 Favorable With subcommittee recommendation – Health and Human Services	Favorable Yeas 19 Nays 0
13	**CS/SB 1146** Criminal Justice / Brandes (Similar H 1175, Compare H 785, H 937, S 796, S 1178, S 1630)	Special Risk Class of the Florida Retirement System; Adding juvenile justice detention officers I and II and juvenile justice detention officer supervisors employed by the Department of Juvenile Justice who meet certain criteria to the class, etc. CJ 01/21/2020 Fav/CS GO 02/03/2020 Favorable AP 02/20/2020 Favorable	Favorable Yeas 19 Nays 0
14	**CS/SB 1166** Commerce and Tourism / Albritton (Similar CS/H 969, Compare H 1309, S 1776)	Broadband Internet Service; Authorizing certain funds within the State Transportation Trust Fund to be used for certain broadband infrastructure projects within or adjacent to multiuse corridors; designating the Department of Economic Opportunity, and not the Department of Management Services, as the lead state entity to facilitate the expansion of broadband Internet service in this state; creating the Florida Office of Broadband within the Division of Community Development within the Department of Economic Opportunity, etc. CM 01/28/2020 Fav/CS ATD 02/13/2020 Favorable AP 02/20/2020 Fav/CS	Fav/CS Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	With subcommittee recommendation – Transportation, Tourism, and Economic Development		
15	**CS/SB 1324** Children, Families, and Elder Affairs / Simpson (Compare CS/H 43, H 449, CS/CS/H 1105, CS/S 236, CS/S 1548)	Child Welfare; Requiring the Florida Court Educational Council to establish certain standards for instruction of circuit and county court judges for dependency cases; authorizing circuit courts to create early childhood court programs; requiring the Department of Children and Families to contract with certain university-based centers; requiring the court to retain jurisdiction over a child under certain circumstances, etc. CF 01/15/2020 Fav/CS AHS 01/28/2020 Favorable AHS 01/29/2020 AP 02/20/2020 Fav/CS	Fav/CS Yeas 20 Nays 0
	With subcommittee recommendation – Health and Human Services		
16	**SB 1326** Simpson (Compare CS/H 7063)	Department of Children and Families; Citing this act as the “DCF Accountability Act”; providing for the creation of the Office of Quality Assurance and Improvement in the Department of Children and Families; extending the timeframe within which a protective investigation is required to be commenced in certain circumstances; requiring certain sheriffs to adopt Florida’s Child Welfare Practice Model and operate under certain provisions of law; providing for the calculation of the allocation of core plus funds, etc. CF 01/21/2020 Favorable AHS 01/28/2020 Favorable AHS 01/29/2020 AP 02/20/2020 Temporarily Postponed	Temporarily Postponed
	With subcommittee recommendation – Health and Human Services		
17	**CS/SB 1394** Innovation, Industry, and Technology / Simmons (Compare S 694, Linked CS/CS/S 810)	Fees/Tobacco Products; Expanding the definition of the term “tobacco products” to include vapor-generating electronic devices and components, parts, and accessories of such devices and to include substances that may be aerosolized or vaporized by such devices; defining the term “vapor-generating electronic device”, etc. IT 02/03/2020 Fav/CS FT 02/13/2020 Favorable AP 02/20/2020 Fav/CS	Fav/CS Yeas 19 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	**SB 1714** Bradley (Similar H 1387)	Sale of Surplus State-owned Office Buildings and Associated Nonconservation Lands; Revising the purpose of the Architects Incidental Trust Fund; requiring funds relating to the sale of surplus state-owned office buildings and associated nonconservation lands to be used for certain purposes; revising the entities that the Board of Trustees of the Internal Improvement Trust Fund must offer a lease to before offering certain surplus lands for sale to other specified entities, etc. GO 02/03/2020 Favorable AEG 02/13/2020 Favorable AP 02/20/2020 Favorable	Favorable Yeas 20 Nays 0
	With subcommittee recommendation - Agriculture, Environment, and General Government		
	A proposed committee substitute for the following bill (SB 7012) is available:		
19	**SB 7012** Children, Families, and Elder Affairs (Compare CS/H 577, H 939, S 704, S 706, S 920)	Mental Health; Providing additional duties for the Statewide Office for Suicide Prevention; requiring the Department of Transportation to work with the office in developing a plan relating to evidence-based suicide deterrents in certain locations; requiring that certain information be provided to the guardian or representative of a minor patient released from involuntary examination; requiring specified persons to complete certain suicide prevention education courses by a specified date; providing that persons providing certain emergency care are not liable for civil damages or penalties under certain circumstances, etc. AHS 02/13/2020 Fav/CS AP 02/20/2020 Temporarily Postponed	Temporarily Postponed
	With subcommittee recommendation – Health and Human Services		
20	**SB 7020** Infrastructure and Security	Emergency Staging Areas; Authorizing the Department of Transportation to plan, design, and construct staging areas as part of the turnpike system for the intended purpose of staging supplies for prompt provision of assistance to the public in a declared state of emergency; requiring the department, in consultation with the Division of Emergency Management, to select sites for such areas; requiring the department to give priority consideration to placement of such staging areas in specified counties, etc. ATD 01/29/2020 Favorable AP 02/20/2020 Favorable	Favorable Yeas 18 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	With subcommittee recommendation – Transportation, Tourism, and Economic Development		
21	**CS/SB 7040** Infrastructure and Security / Education (Compare CS/H 7065, S 62, CS/S 1062)	Implementation of the Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission; Authorizing a sheriff to contract for services to provide training under the Coach Aaron Feis Guardian Program; adding penalties for persons who knowingly submit false information to a law enforcement agency; revising the training, consultation, and coordination responsibilities of the Office of Safe Schools; requiring the Louis de la Parte Florida Mental Health Institute to consult with specified state agencies and convene a workgroup to advise those agencies on the implementation of specified mental health recommendations, etc. IS 02/03/2020 Fav/CS AP 02/20/2020 Fav/CS	Fav/CS Yeas 21 Nays 0
	Consideration of proposed bill:		
22	**SPB 7066**	Licensure Fees; Requiring certain nonembryonic stem cell banks to pay specified fees, etc.	Submitted and Reported Favorably as Committee Bill Yeas 20 Nays 0
	(Preliminary Draft Available - final draft will be made available at least 24 hours prior to the meeting)		
	Other Related Meeting Documents		

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
1/23/20	SM	Report Submitted
1/27/20	JU	Favorable
2/18/20	ACJ	Recommend: Favorable
2/20/20	AP	Favorable

January 23, 2020

The Honorable Bill Galvano
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 28** – Senator Gibson
HB 6507 – Representative Daniels
Relief of Clifford Williams by the State of Florida

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR $2,150,000 FROM THE GENERAL REVENUE FUND FOR THE PURCHASE OF AN ANNUITY, AND A WAIVER OF TUITION AND FEES FOR UP TO 120 HOURS OF INSTRUCTION, TO COMPENSATE CLIFFORD WILLIAMS FOR 42 YEARS AND 11 MONTHS OF WRONGFUL INCARCERATION.

FINDINGS OF FACT:

General Overview

On May 2, 1976, Clifford Williams (the claimant) and his nephew, Hubert Nathan Myers (Nathan Myers), were arrested and charged with first-degree murder of Jeanette Williams and attempted murder of Nina Marshall. Mr. Williams and Mr. Myers were convicted, eventually both were sentenced to life in prison, and remained incarcerated for 42 years and 11 months.

In seeking post-conviction relief, Mr. Myers sent a letter to the Office of the State Attorney of the Fourth Judicial Circuit in 2017. After the Conviction Integrity Review (CIR) Division was established within the Office of the State Attorney in January

of 2018, the CIR Division began a review and investigation based upon the request of Mr. Myers.[1]

The CIR Division's review and investigation resulted in a report concluding Mr. Myers and Mr. Williams were serving life sentences based upon testimony from one person, and "in the face of overwhelming contradictory forensic evidence and alibi testimony,"[2] which had not been presented to the jury.

The CIR Division found Mr. Myers and Mr. Williams demonstrated claims of actual innocence substantiated by credible evidence[3] and an audit board[4] reviewed the report as part of the CIR Division process. The audit board was unanimous in finding there was not sufficient evidence of guilt to support the convictions; a lack of faith in the convictions; "no definitive proof of innocence, such as DNA evidence"; and there was "sufficient credible evidence to support a finding that the defendants are, in fact, 'probably' innocent of the charges."[5] The State Attorney of the Fourth Judicial Circuit agreed with the findings.[6]

On March 28, 2019, the convictions and sentences of Mr. Myers and Mr. Williams were vacated.[7]

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[1] *See* Special Master Hearing, Testimony of Shelley Thibodeau (Director of CIR Division), 53:10–55:30 (Oct. 30, 2019) (discussing the CIR process–generally and specifically regarding this case–and that she and an investigator lead the reviews and investigations).

[2] State Attorney's Office of the Fourth Judicial Circuit of Florida, Conviction Integrity Review Division Investigation (CIR Report), 42 (Mar. 2019); *see* https://secureservercdn.net/198.71.233.254/9c2.a8b.myftpupload.com/wp-content/uploads/2019/03/CIR_Investigative_Report_FINAL_3.28.19_R.pdf (last visited Jan. 16, 2020). The report was authored by Ms. Shelley Thibodeau, Assistant State Attorney and Director of the CIR Division. Special Master Hearing, Testimony from Shelley Thibodeau, 33:30–36:15 (Oct. 30, 2019) (discussing the general contents of the CIR Division report).

[3] CIR Report at 44.

[4] The independent audit board serves in a fact-finding capacity as a "backstop" to the CIR Division director's investigation and help prevent the potential for confirmation bias. The board reviews all of the information provided and audits the director's investigation. The board can make suggestions and ask questions regarding consideration or review of information. Special Master Hearing at 46:00–47:10. The independent audit board for this matter was comprised of two former prosecutors, a retired special agent from the Federal Bureau of Investigation, a former public defender, and a community member at large. *Id*. at 47:10–47:40.

[5] CIR Report at 43.

[6] Claimant's Exhibit 2, Video of State Attorney's Press Conference at 8:49–9:16 (Mar. 28, 2019).

[7] Order Vacating Defendant's Judgment and Sentences, State of Fla. v. Williams, No. 1976-CF-000912 (Fla. 4th Circ. Ct.) (Mar. 28, 2019). The director of the CIR Division said the judge presiding over the hearing noted during the hearing she had read the CIR report, did some of her own research, and read prior post-conviction motions. Special Master Hearing at 37:00–38:44 (discussing interaction of the claimant's attorneys and the State Attorney's Office with the judge presiding over the hearing and what was provided for consideration).

Subsequently, Mr. Myers filed a petition for compensation under the Victims of Wrongful Incarceration Compensation Act.[8] On September 10, 2019, the court in which he sought relief determined he is eligible to receive compensation and demonstrated actual innocence by clear and convincing evidence as required by statute.[9]

Mr. Williams, however, has two unrelated prior felonies[10] precluding him from receiving compensation through the statutory procedure and seeks relief through a claim bill. Despite the prior felonies, attorneys for Mr. Williams filed a petition due to the 90-day jurisdictional window of the statute.[11] Mr. Williams also filed a motion to have portions of the Victims of Wrongful Incarceration Compensation Act found unconstitutional and that matter is ongoing.[12]

The Shooting as Alleged by the Surviving Witness and Law Enforcement Interaction as Described in the General Offense Report

On May 2, 1976, at approximately 1:30 a.m., Jeanette Williams and Nina Marshall were shot while in their bed.[13] Ms. Williams died instantly[14] from the bullet that entered the back of her head while Ms. Marshall survived the wounds she sustained.[15]

Ms. Marshall recalled falling asleep while watching television, waking at the sound of someone unlocking the door, falling

[8] Chapter 961, Fla. Stat.
[9] Order Granting Petition of Wrongful Incarceration and Eligibility for Compensation Pursuant to the "Victims of Wrongful Incarceration Act" of Florida, State of Fla. v. Hubert Nathan Myers, No. 76-CF-000912 (Fla. 4th Circ. Ct.) (Sept. 10, 2019).
[10] In 1960, Mr. Williams was found guilty of attempted arson and sentenced to two years in county jail. In 1965, Mr. Williams was found guilty of robbery and sentenced to eight years in prison.
[11] Special Master Hearing at 48:00–48:36.
[12] Motion to Declare Portions of Chapter 961, Florida Statutes, "Victims of Wrongful Incarceration Compensation Act" Unconstitutional, State of Fla. v. Williams, No.76-912 (Fla. 4th Cir. Ct.) (June 10, 2019); *see also* Senate Rule 4.81(6) (regarding when claim bills shall be held in abeyance but stating "[t]his section does not apply to a bill which relates to a claim of wrongful incarceration").
[13] *See* Jacksonville Police Department, General Offense Report, at 2 and 7 (July 8, 1976).
[14] State of Fla. v. Williams and Myers, No. 76-912 (Fla. 4th Circ. Ct.) (Second Trial Testimony of Dr. Sam E. Stephenson) 336 (Sept. 1976).
[15] Dr. Stephenson, the Chief of Surgery at University Hospital who oversaw Ms. Marshall's surgery stated she had two, possibly three, gunshot wounds. There was a "through and through" wound. One bullet "entered just below the left cavity on the left side and blew out the anterior part of the neck about the level of the thyroid." The second wound (the "through and through" entered on the left side of her neck, across her voice box, and exited through the right side of her neck. The third wound was on her left forearm and was the only bullet in her body when she presented at the hospital. He also noted Ms. Marshall had only "mild shock," which would have had "practically" no effect on an individual. Second Trial Testimony of Dr. Sam E. Stephenson at 326–328.

back asleep, and sometime later waking for the second time with a burning sensation in her neck from a bullet wound.[16] She heard popping sounds and said the sounds were coming from in front of the television, where two men were standing.[17] She said she saw sparks as they fired guns, wrapped in something, from the foot of the bed.[18] She claimed she saw who they were when she rolled onto the floor, then sat up while leaning on the bed, and she then fell back to the floor.[19]

Ms. Marshall gave inconsistent statements with regard to what occurred after she was shot. In her written statement from the morning of May 4, 1976, Ms. Marshall stated, after she was shot, she laid across Ms. Williams and acted as though she were dead.[20] Other inconsistent statements from Ms. Marshall were she fell out of the bed with both knees on the ground and then an account that she fell out of the bed with one leg still on the bed.[21] Ms. Marshall also gave conflicting testimony as to whether Ms. Williams said anything during the shooting.[22]

After the shooting, Ms. Marshall said she was stepped over (but could not recall if she was stepped over by one or both shooters after she fell to the floor).[23] She also claimed this was the moment she identified the shooters (while she was laying on the ground) because she saw them looking into the room from the doorway on their way out. She later exited the apartment, attempted to get help at a neighboring apartment but no one opened the door; she then walked toward the road where she said she saw Clifford Williams and Nathan Meyers walking toward the party; and a passerby stopped and gave her a ride to the hospital.[24] Multiple times, the driver asked

[16] First Trial Testimony from Nina Marshall, 23 (July 1976); Deposition, Nina Marshall, 50–51 (July 8, 1976).
[17] Second Trial Testimony from Nina Marshall at 176; Deposition, Nina Marshall at 52–53.
[18] *See* Deposition, Detective Richard Bowen, 41 (June 15, 1976). Detective Bowen stated no weapon(s) or items used to muffle a gun were found. *Id.* at 42–43.
[19] First Trial Testimony of Nina Marshall at 122 (stating she saw sparks coming from two directions); Deposition, Nina Marshall at 55–58.
[20] Written Statement from Nina Marshall (May 5, 1976). *See* Deposition, Henry Curtis, 5 (January 2, 1997) (stating Ms. Marshall told him she had laid across Ms. Williams and played dead).
[21] First Trial Testimony from Nina Marshall at 65–69.
[22] First Trial Testimony from Nina Marshall at 63 (stating Ms. Williams called out for her).
[23] Deposition, Nina Marshall at 106; *see* Deposition, Nina Marshall at 58–59; *see also* Nina Marshall, Written Statement (May 5, 1986). Ms. Marshall also stated she saw them walking outside and did not pay any attention as to whether they had pillows or blankets. First Trial Testimony from Nina Marshall at 90.
[24] Second Trial Testimony from Nina Marshall at 180; Deposition, Nina Marshall, at 65–66. Ms. Marshall was logged into the emergency room at 2:07 a.m. on May 2, 1976. General Offense Report at 12. Harold Torrence was the individual who gave Ms. Marshall a ride to the hospital and confirms there was a vehicle in front of him–

Ms. Marshall who shot her but she did not answer the question. While in the hospital, Ms. Marshall wrote separate notes to an officer–one with "Clifford Williams" and the other with "Nathan"[25] and claimed both men had entered the apartment and shot her and Ms. Williams.[26]

Around 2:40 a.m., officers noted approximately 35–50 people gathered in a crowd at the scene.[27] While speaking with people from the crowd, an officer was approached by Nathan Myers, who identified himself as a resident of the apartment and asked what happened.[28] In response to inquiries from the officer, Mr. Myers stated he had not been at the apartment since the morning and provided information about where he had been–including his presence at the party down the street.[29] Mr. Williams also spoke with the officer and stated he had been at the party, as well.

As the officer's investigation continued, the officer determined Ms. Rachel Jones hosted the party down the street and Ms. Jones, as well as others, confirmed the attendance of Mr. Myers and Mr. Williams at the party, before and during the time when shots rang out.[30] *See* footnotes 90 and 91 for alibi witness accounts.

Alleged Motives and Statements

Although the CIR investigation was not able to substantiate any of the following alleged motives and statements, the following information is provided as a matter of completeness with regard to contents of records and information furnished.

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which matches Ms. Marshall's account; however, he did not see any men walking down the street and Ms. Williams did not stop for a significant period of time (as she stated she did when seeing Mr. Williams and Mr. Myers) once she started toward his vehicle. Second Trial Testimony from Harold Torrence at 310, 315, 318, and 322; Deposition, Harold Torrence 4 (July 6, 1976). Mr. Torrence said he asked Ms. Marshall five times who shot her and she did not answer but told him to stop talking and get her to the hospital. Deposition, Harold Torrence at 5–6, 9; *see* Second Trial Testimony from Harold Torrence at 318.

[25] General Offense Report at 6. A third note requested for someone to check on Jeanette Williams. *See* Hospital Notes and Deposition, Officer Kenneth Monroe (July 7, 1976).

[26] Second Trial Testimony from Nina Marshall at 167; General Offense Report at 15–16. Mr. Myers, Ms. Marshall, and Ms. Williams were roommates and Mr. Williams kept personal items at the apartment, stayed there sometimes, and helped pay rent on occasion and both men had keys to the apartment. Additionally, after Mr. Myers identified himself as someone who lived at the apartment, he was asked to identify Ms. Williams at the crime scene.

[27] General Offense Report at 4.

[28] *Id*. at 4.

[29] *Id*.; Deposition, Detective Richard Bowen at 26.

[30] General Offense Report at 4.

Records and information provided during the claim bill process show Ms. Marshall made various statements with regard to whether Mr. Williams or Mr. Myers may have had motive to hurt her and Ms. Williams. For example, the police report includes an alleged issue over a drug deal involving Mr. Williams, Mr. Meyers, Ms. Williams, Ms. Marshall, and others. The police report also includes reference to the possibility Mr. Williams demanded $100 of rent money be returned to him during an alleged physical altercation with Ms. Williams a week before the shooting.[31]

Additionally, in her deposition, Ms. Marshall initially responded in the negative with regard to whether she could think of any reason Mr. Myers would have wanted to shoot her or Ms. Williams. When asked again, "No reason whatsoever?" Ms. Marshall replied, "Nothing but that we had heard them talking about some murders and things. I really don't know why."[32] Ms. Marshall alleged the conversation occurred about a month, or a month-and-a-half, before the shooting. She stated she overheard "they had killed a guy and took him off and buried him in the woods."[33] She then indicated it was actually not a conversation with both men that was overheard but an alleged conversation she had with Mr. Myers and she was not sure whether Mr. Williams had heard their conversation.[34] She also stated "they" were smoking marijuana at the time of the conversation and Mr. Myers had supposedly bragged about being high.[35]

With regard to the alleged statement from Mr. Williams, in 1976, a man named Christopher Snype provided a written statement describing statements made to him by an individual named Tony Gordon. Mr. Snype stated Mr. Gordon told him he was around the crime scene when people found out only one person had died and Mr. Williams allegedly walked "over close to him, hit a car with his fist and [said], '[Expletive], one of the [expletive] ain't dead!'"[36] Mr. Gordon did not want to be involved and did not cooperate with the CIR investigation.[37]

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[31] Deposition, Nina Marshall at 73–74;127. General Offense Report at 13–14; Deposition, Detective J.R. Bradley at 46 – 47.
[32] Deposition, Nina Marshall at 111.
[33] *Id*. at 116.
[34] *Id*.
[35] *Id*.
[36] Christopher Snype, Statement July 13, 1976.
[37] *Infra* 11–12.

The undersigned inquired of counsel and the director of the CIR Division regarding these alleged potential motives and statements, as well as whether anything in the investigation suggested the men had knowledge the shooting would occur. Significantly, the CIR director was unable to substantiate any of the alleged potential motives.[38] The director located and interviewed the brother of the individual Ms. Marshall alleged Mr. Williams and Mr. Myers may have killed and buried. Through the interview with the brother of the deceased, the director was informed that the brother heard someone else (not Mr. Williams or Mr. Myers) may be responsible for his brother's death.[39]

The director also noted concern with changes and variations from Ms. Marshall regarding motives. She also attempted to find, but was not able to develop, any information the men would have had knowledge the shooting was going to happen. Additionally, in response to the alleged comment of Mr. Williams, she did not know the context or what to make of the alleged comment. She noted no one else made a statement similar to Mr. Snype's, and referred to other witnesses not understanding why Mr. Myers and Mr. Williams were being arrested because they had been at the party.[40]

With regard to the relationship of Mr. Myers and Mr. Williams with Ms. Marshall and Ms. Williams, the CIR director noted they had dinner together the Friday before the evening of the party during which the shooting occurred.[41]

Arrest of Mr. Williams and Mr. Myers

Officers at the scene were informed of the names written down by Ms. Marshall.[42] At approximately 3:00 a.m. and 3:10 a.m., respectively, Mr. Williams and Mr. Myers were arrested

[38] Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019); *see also* E-mail correspondence from Shelley Thibodeau (Dec. 18, 2019).
[39] *Id*.
[40] Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).
[41] E-mail correspondence from Shelley Thibodeau (Dec. 18, 2019).
[42] Second Trial Testimony from Nina Williams at 188. Additionally, in July of 1976, Ms. Marshall provided she had smoked marijuana the night of the shooting. Second Trial Testimony from Nina Marshall at 170; First Trial Testimony from Nina Marshall at 16; Deposition, Nina Williams at 106. Deposition, Detective J.R. Bradley at 45. Ms. Marshall stated she used methadone as she had been to the methadone clinic the morning before the shooting. Second Trial Testimony from Nina Marshall, 165; Deposition, Nina Marshall at 16 and 70. First Trial Testimony from Nina Marshall at 6 (July 20, 1976).

for murder and attempted murder.[43] The police report notes Mr. Williams shouted to people nearby to get a list of all of the people who were at the party and to contact his attorney.[44]

After being arrested, Mr. Meyers told law enforcement he did not have anything to worry about because he did not shoot the victims and he had been at the party.[45] Mr. Williams and Mr. Myers have consistently proclaimed their innocence.[46]

The Convictions and Sentences of Mr. Myers and Mr. Williams

Prior to trial, Mr. Myers was offered 2–5 years[47] in exchange for a guilty plea. Mr. Myers, who was 18-years old at the time, maintained his innocence and did not take the offer.[48]

Mr. Williams and Mr. Myers were tried in July of 1976 (two months after the shooting) and then, after a mistrial was declared, they were tried again in September of 1976, and each faced the death penalty if convicted.

Both men were convicted with Mr. Myers being sentenced to life in prison and Mr. Williams being sentenced to death contrary to the jury's recommendation. Mr. Williams's death sentence was overturned and he was subsequently sentenced to life after spending four years on death row.

Physical Evidence and Information Contradicting Testimony of the Surviving Victim

The Conviction Integrity Review (CIR) Division's investigation and report focused on information not presented to the jury (or not available at the time), including the physical evidence, individuals stating another man had confessed to shooting

[43] General Offense Report at 5–6.
[44] General Offense Report at 5; Deposition, Detective Richard Bowen at 35–36. *See also* Deposition, Officer Robert Horne, 48 (July 14, 1976).
[45] Deposition, J.R. Bradley at 33–35.
[46] Williams and Mr. Meyers also independently told officers they had not fired a weapon in the last 24 hours; with Mr. Williams further stating he had not fired a weapon since New Year's. Deposition, Detective J.R. Bradley at 34. The police report contains a statement that the physical evidence matches Ms. Williams's account of shooters in the room while also noting the holes and damage to the window. A part of the report reads, "it appears as though the suspects in this case intended to make it look as though the victims had been shot by someone from the bedroom window." General Offense Report at 16.
[47] Special Master Hearing, Testimony of Shelley Thibodeau at 1:35:10–1:36:00 Mr. Myers recalled the offer being two years while the State provided the offer was five years. CIR Report at 1, n. 4.
[48] Special Master Hearing, Testimony of Shelley Thibodeau at 32:30–33:20 (discussing prior attempts at post-conviction relief).

Ms. Williams and Ms. Marshall, and alibi witnesses. This section provides an overview of the CIR Division report (including the findings of crime scene reconstruction professionals[49]) and information provided during the claim bill process.[50]

Sound Experiment

Crime scene reconstruction professionals from Knox and Associates, LLC (Knox) conducted a sound experiment to determine what could be heard at the party if a gun was fired inside of the bedroom versus through the window (from the outside).[51] The shots fired inside of the room "were barely perceptible and were not measurably louder than the ambient noise level" during testing.[52] Individuals from the State Attorney's Office who were at the location of the recording device, which was in the location of the party, reported the shots as being "only faintly perceptible."[53]

Contrary to the shots fired inside of the bedroom, shots fired from outside the bedroom window produced "clearly perceptible" audio recordings at the location of the party.[54] The experiment supported statements by witnesses that the shooting had occurred from outside of the bedroom window and contradicted the statements of the lone testifying witness.[55]

Window Screen and Frame

Knox demonstrated, from near contact, three inches, six inches, and 12 inches from the muzzle to the screen, it was possible to fire six shots through the screen and form just a single tear[56] as was present in the screen from the crime scene.

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[49] *See* CIR Report. In 2018, the CIR Division hired Knox and Associates, LLC to reconstruct, analyze, and report findings with regard to the crime scene.
[50] *See generally* Special Master Hearing, Testimony of Shelly Thibodeau at 1:02:45–1:28:56 (describing the CIR's investigation and comparison to Ms. Marshall's report).
[51] Special Master Hearing, Testimony of Shelley Thibodeau at 2:04:00–2:05:44 (describing the sound experiment in detail and the inability to hear, at the location of the party, shots fired from inside the bedroom).
[52] Knox and Associates, LLC Report (Knox) 16–17 (Nov. 27, 2018).
[53] *Id*. at 17.
[54] *Id*.
[55] *Id*. at 21.
[56] *Id*. at 17.

The curtains, screen, and window of the north bedroom window all had holes in them.[57] The lower right portion of the window frame "revealed an apparent bullet hole" and had "carbonaceous material" on it.[58]

Additionally, by deposition in 1976, the lead detective stated, "the physical evidence at the window itself indicated that a projectile of some sort had gone inside of the bedroom from the outside."[59] Another detective made the same observation, stating the "screen was pushed from the outside to the inside" and recalled glass fragments being on the bed, which he believed to be from the window.[60] All of this information supported the shots being fired from outside of the window.

Wound Path

The reconstruction included analysis of the wound paths. Knox found the wound to the back of Ms. Williams's head was "most consistent" with having been fired from outside of the window.[61] The report states, "other gunshot wounds were non-specific as to location from which they were fired, though all of the gunshot wounds could have been inflicted from outside the bedroom window."[62]

The director testified she spent significant time on the issue of wound dynamics and wound path to determine if it would have been possible for the women to have received their injuries from shots being fired at the foot of the bed as Ms. Marshall described. She summarized all of the injuries of Ms. Williams, who was laying on her right side with her back to the window (and was closest to the window), who had wounds to her backside. She had four injuries–three to the back of her left arm and the fatal injury to the back of her head while Ms. Marshall was struck twice. The director highlighted that none of the injuries were to the front side of either woman.[63]

Using a computer program, the CIR investigation created visual representations of the wound paths with the use of

[57] General Offense Report at 4.
[58] FDLE, Tallahassee Regional Crime Laboratory Report (July 5, 1976); *see* Special Master Hearing, Testimony of Shelley Thibodeau at 1:11:00–1:11:45.
[59] Deposition, Detective Richard Bowen at 46.
[60] Deposition, Detective J.R. Bradley at 11–12.
[61] Knox at 18.
[62] *Id*. at 18.
[63] Special Master Hearing, Testimony of Shelley Thibodeau at 1:12:15–1:13:30.

dowels going into entry and exit wounds. The extended dowel moved with the body in the recreation. The finding was of all wounds being demonstrably possible with shots fired from the window, but they could not find a plausible pathway for all wounds when recreating shots being fired from the foot of the bed and television.[64]

The CIR director also testified with regard to the current medical examiner's findings–and particularly, with regard to an irregular wound of significance. The most important wound for the director was the irregular entrance wound because the medical examiner, without knowing information about this case, described the irregularity would be created by the projectile having struck something prior to entering the victim. Striking something would cause the projectile to tumble, which would then result in the unique entrance would as the projectile entered the skin.[65] The CIR director found this information significant because, if the shooting had occurred from the foot of the bed–there would not have been an intervening object for the bullet to hit and cause the bullet to tumble and create the irregular entrance wound. However, the information provided by the medical examiner made sense to the director if the bullet was shot through the window and struck the glass, screen, or window frame causing it to tumble and then enter the skin of the victim.[66] The rest of the entrance wounds on Ms. Williams were circular but for the one irregular wound. This information corroborated the shooting having occurred from outside of the window.[67]

Blood Evidence

The report includes the observation that Ms. Marshall was bleeding profusely from her wounds and left bloody footprints when she left the apartment. The Knox report notes, and pictures from the crime scene show, an absence of bloody footprints from any other individual despite Ms. Marshall stating two people had shot from inside of the bedroom and she was stepped over after she laid on the ground bleeding.[68]

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[64] *Id*. at 1:23:10–1:24:12.
[65] *Id*. at 1:15:00–1:15:56.
[66] *Id*. at 1:15:56 – 1:16:38.
[67] *Id*. at 1:16:38–1:17:14.
[68] *See* Knox at 19. The CIR director testified the blood evidence was "a smaller piece of the puzzle" but did identify inconsistencies with Ms. Marshall's statements and the blood evidence. She noted the undisturbed pool of blood where Ms. Marshall laid, injured, in the middle of the floor and a lack of footprints from indoor perpetrators as described by Ms. Marshall. Special Master Hearing at 2:20:40–2:22:40.

Flashes and Sounds of Gunshots
The Knox report found Ms. Marshall's testimony of having seen flashes coming from two guns was inconsistent with her statement that the guns were wrapped in pillows or blankets. The report also notes there were no pillows or blankets with singed or gunshot residue fibers found.[69]

Room Arrangement
A review of evidence demonstrates the shooters would have needed to enter the room, then walk at about a 90-degree angle to get to the foot of the bed to attain the position Ms. Marshall described.[70] The pictures show an apparently undisturbed box fan balanced on the arms of a small wooden rocking chair, an undisturbed laundry basket filled with stacked laundry,[71] and undisturbed, neatly arranged shoes partially tucked under the dressers.[72]

The Knox report notes, "[t]he likelihood of a shooter(s) entering the residence and taking a position at the furthermost position within the scene (foot of the bed and back of the bedroom) is in conflict with the ease of which a shooter could take a position outside and effectively hit targets on the bed." The report also notes shooting from outside would have no risk of survivor identification, defensive movements, and would allow for an unimpeded escape.[73]

Summary of Knox Report Conclusion
The Knox report provides the following in support of the likelihood the shooting occurred from outside of the bedroom window: 1) broken glass on the floor and on top of the bed by the window; 2) the tear in the window screen; 3) a bullet on the floor below the window; 4) the identified bullet hole in the window frame.[74] The report also noted the wound to Ms. Williams's head in conjunction with the position of her body was consistent with having been shot from the window. The

[69] Knox at 20.
[70] *See* Special Master Hearing, Testimony of Ms. Thibodeau at 1:02:44–1:06:37 (summarizing the testimony of Ms. Marshall; referencing the police had documented shattered glass on the bed from the window next to the bed, damage to the aluminum screen with prongs facing inward, damage to the window frame they thought was from a bullet, etc.; and noting the physical evidence was not presented to the jury).
[71] The basket of clothes remained how Ms. Williams remembered it prior to the shooting. Deposition, Nina Williams at 92–93; *see also* Special Master Hearing, Testimony of Shelly Thibodeau at 1:08:00–1:09:03.
[72] CIR Report, exhibits P and Q at 62–63.
[73] Knox at 21.
[74] *Id*. at 22.

sound experiment demonstrated it would have been unlikely for individuals at a party to have heard gunshots if they were fired from inside the bedroom; and the physical evidence was consistent with shots having been fired from outside of the bedroom window.

Gunshot Residue Testing

The hands of Mr. Williams and Mr. Myers were tested for gunshot residue at approximately 5:15 a.m. on May 2, 1976.[75] Results of the tests were negative for gunshot residue.[76]

Polygraph

Mr. Myers and Mr. Williams agreed to take polygraph exams. Mr. Myers was asked three questions during the polygraph–all of which asked whether he shot either of the women. He responded in the negative and there was no deception indicated in his exam results.[77] With regard to Mr. Williams, the polygraph examiner noted he was having difficulty understanding the instructions and was incorrectly answering questions and, therefore, was "not a suitable subject for a polygraph examination" because of his "advanced age."[78]

Evidence of One Shooter

Analysis of the evidence (including recovered bullets and statements) supports the crime being committed with the use of one gun by a single individual.

Five .38 caliber bullets were recovered (three from the scene and two from the body of Ms. Williams) as well as a damaged .38 caliber bullet from Ms. Marshall.[79] An additional .32 caliber bullet was removed from Ms. Williams and noted to be from a healed wound as it was covered in scar tissue.[80] The crime

[75] General Offense Report at 7. Mr. Williams and Mr. Myers were arrested around 3:00 a.m. while present in the crowd at the scene. *Id.* at 5.
[76] Department of the Treasury Bureau of Alcohol, Tobacco, and Firearms, Report of Laboratory Examination (May 18, 1976) ("The amount of antimony found in the hand swabs was insufficient to indicate the presence of gunshot residue; therefore, no testing for barium was conducted. From these findings, no conclusion can be drawn as to whether the subject(s) did or did not handle or fire a weapon."); *see* General Offense Report at 7.
[77] Office of the Sheriff, Jacksonville, FL, Intradepartmental Correspondence Re: Hubert [Nathan] Myers Polygraph Examination 2–3 (July 20, 2018).
[78] Office of the Sheriff, Jacksonville, FL, Intradepartmental Correspondence Re: Clifford Williams Polygraph Examination 2 (November 7, 2018).
[79] CIR Report at 28.
[80] *See* FDLE, Tallahassee Regional Crime Laboratory Report ("FLDE, Crime Lab Report") (July 5, 1976); Lipkovic, M.D., Peter, Report: Office of the Medical Examiner, 3 (May 2, 1976); General Offense Report at 7. The three .38 caliber bullets removed from Ms. Williams were from her head, left upper arm, and left lower arm. *Id.*

laboratory report indicates five of the bullets were able to be microscopically compared and were all fired from the same weapon. A damaged bullet and a fragment were determined to have "some evidence of a relationship" to the others, but the relationship was "too limited in amount and character" for conclusive results.[81]

Henry Curtis, an individual who knew Mr. Williams, Mr. Myers, Ms. Williams, and Ms. Marshall, was deposed in 1997, and provided information indicating Ms. Marshall told him conflicting stories. Mr. Curtis said Ms. Marshall once told him Mr. Williams and Mr. Myers were the shooters and she laid on the bed and acted as if she were dead once she had been shot.[82] However, she also told him she did not know who shot her because she was asleep when it happened.[83] Mr. Curtis also stated he was positive Ms. Marshall used heroin during the trial, including while she was at his house.[84]

Mr. Torrence, who gave Ms. Marshall a ride to the hospital, returned to the scene later and stated about three or four people said the shots came from outside of the window and there was a man who saw it but would not say anything.[85]

A July 13, 1976, statement from Christopher Snype states a friend of his, named Tony Gordon, told him he looked out the window after hearing the first shot and saw a black male, dressed in black, standing outside of the bedroom window shooting several more times.[86] Testimony from the director and the witness chart from the CIR investigation note Mr. Gordon claimed he did not see or witness anything; however, he also failed a polygraph in 1976 when answering in the negative as to whether he had knowledge of the shooting.[87] The notes also indicate Mr. Gordon remembered the event but did not want to be involved; he did not cooperate during the CIR investigation.[88]

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[81] FDLE, Crime Lab Report at 2; *see* Special Master Hearing, Testimony of Shelley Thibodeau at 1:14:30–1:14:55 regarding the analyst finding the bullets were fired from the same weapon).
[82] Deposition, Henry Curtis at 5.
[83] *Id*. at 7 and 15.
[84] *See* Deposition, Henry Curtis at 1 and 14.
[85] Deposition, Harold Torrence at 11.
[86] Christopher Snype, Statement (July 13, 1976).
[87] Special Master Hearing, Testimony from Shelley Thibodeau at 2:09:48–2:10:43; Witness Chart; Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).
[88] Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).

The CIR director testified evidence only shows one gun being fired and (but for Ms. Marshall's account) no evidence of more than one shooter.[89]

Alibi Witnesses

Mr. Williams and Mr. Myers informed officers they were at a party in an apartment building nearby. The presence of both men at the party, before and during the time when shots rang out, was confirmed by the host,[90] as well as a number of other individuals.[91]

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[89] Special Master Hearing, Testimony of Shelley Thibodeau at 2:15:16–2:15:35.

[90] Rachel Jones, the host of the party, confirmed both men and Mr. Williams's wife, Barbara Williams, were all at the party. Ms. Jones recalled she was intoxicated that evening. She first recalled being in a bedroom with Mr. Myers when someone asked them to turn the music down because they thought they heard gunshots. Later, she stated she was on the porch when three shots were fired and both Mr. Williams and Mr. Myers were in her apartment. General Offense Report at 8.

[91] Virginia Wilkerson also attended the party and told police she saw Mr. Williams and Mr. Myers arrive approximately fifteen minutes after she did (about 20 minutes after 1:00 a.m.). She stated she heard about the gunshots after they had arrived; Mr. Williams was in the kitchen, and subsequently asked Mr. Williams what time it was and went to her apartment to check on her children. She also said she saw Mr. Williams and Mr. Myers walking with everyone else toward the scene. *See* Deposition, Virginia Wilkerson, 9, 11, 17, and 23 (July 16, 1976); General Offense Report at 9. Frances Brown, the other host of the party, confirmed seeing Mr. Williams and Mr. Myers arrive at the party with Barbara Williams and Rico Rivers. Ms. Brown told police she did not drink and remembered making plates of food for Mr. Williams and Mr. Myers after they got to the party. She recalled hearing five shots sometime after they had arrived. General Offense Report at 9–10. Debra White lived near the party and went back and forth from her apartment to the party throughout the night. She recalled hearing shots and saw Mr. Williams walking out of the party toward the road with a plate of food in his hand. General Offense Report at 11. Ella Ruth Maddox recalled Mr. Williams and Mr. Myers being at the party before she left to take a friend home. Upon returning to the party, the police were at the scene of the shooting. General Offense Report at 11. Joann Fleming, roommate of Debra White and Ella Ruth Maddox, was at her apartment with Ms. White when she heard five shots, looked outside to see Mr. Williams walk out of the party to the road and then return to the party; she also confirmed seeing Mr. Myers coming from the porch where the party was after the shots were fired. Deposition, Joann Fleming, 6–7 (July 16, 1976). About five to fifteen minutes later, she walked with Mr. Williams to the scene (where two police cars were present) and he asked her to go find out what was going on. *Id*. at 7–8; General Offense Report at 10. Vanessa Snypes confirmed the presence of Mr. Williams, Mr. Myers, Barbara Williams, and another man arriving at the party together. She recalled being intoxicated and did not hear any shots. General Offense Report at 11. Nellie Mae Anderson saw Mr. Williams, Mr. Myers, Barbara Williams, and Rico Rivers arrive at the party and was eating with Mr. Williams and Mr. Myers when she heard five shots. Once someone announced police being at the scene, she walked to the scene with others from the party. General Offense Report at 11; Deposition, Nellie Mae Anderson, 10–11 (July 16, 1976). Rosa Lee Royster, a friend of the deceased, stated the victim owed Mr. Williams $100, and said she saw Mr. Williams and Mr. Myers arrive at the party. She later heard four shots fired and said she saw Mr. Williams walk toward the street with a plate of food and walk back to the party commenting that it was an intoxicated person shooting into the air. General Offense Report at 12. Pauline Dawson was at the party, recalled Mr. Williams being there and giving her seat at the table to Barbara Williams because she was pregnant at the time. In her deposition, she stated she saw Mr. Williams arrive and thought he was still in the kitchen when the shots rang out. Deposition, Pauline Dawson, 5–8 (July 16, 1976). She said Mr. Williams walked along with others from the party down to the scene. *Id*. at 10. Barbara Williams recalled arriving at the party with Mr. Williams and Mr. Myers and Mr. Williams eating while seated on the arm of a sofa when the shots rang out; she also recalled Mr. Myers being seated by a stereo. Deposition, Barbara Williams, 34–35 (July 16, 1976). She also stated, from the time they arrived until the shots were fired, Mr.

Information gathered in interviews conducted by the CIR director were consistent with testimony from 1976 with regard to Mr. Myers and Mr. Williams being at the party at the time shots were fired.[92]

The CIR report highlighted three of the alibi witnesses.[93] First, Joann Fleming, whose apartment was next door to the party, who still clearly recalls see Mr. Myers when the shots rang out. Second, Vincent Williams, who is noted in the report as being related to Mr. Williams and Mr. Myers, but whose parents did not like him spending time with his cousin because of his lifestyle. He did not know anyone else at the party, but was able to accurately describe the apartment layout, made statements consistent with other witnesses, and remembered seeing Mr. Williams and Mr. Myers when people heard the shots being fired. The third alibi witness was Geraldine Prey. Although not present at the time of the shooting, she provided information that "everyone" knew Mr. Williams and Mr. Myers were not the shooters because they were at the party. She also noted Ms. Williams was well-liked and did not think other women from the area would provide an alibi for Mr. Williams or Mr. Myers if it were not true because of their like of Ms. Williams. She also noted Mr. Myers told her the prosecution wanted him to testify against his uncle but he could not do that because he and his uncle (Mr. Williams) were at the party together. *See* footnotes 90 and 91 for additional statements from alibi witnesses.

Sometime after hearing the shots, a group of people attending the party (including Mr. Williams and Mr. Myers) gathered outside of the apartment building where the shooting had taken place.

Reported Confessions by Nathaniel Lawson

The Conviction Integrity Review (CIR) Division's director testified to interviewing four individuals to whom a man named Nathaniel Lawson allegedly confessed. The director attempted to link the four individuals together and found, but for them growing up in the same area, she could not tie them

Williams never left the party. *Id*. at 40. Mrs. Williams left the party with Rosetta Simon, Raymond Rico Rivers, and Nathaniel Lawson. *Id*.

[92] Special Master Hearing, Testimony of Shelley Thibodeau at 2:05:50–2:06:54.

[93] CIR Report at 17–19.

together in any other way and found them credible.[94] The four individuals are Tony Brown, Leatrice Carter, Frank Williams, and James Stepps.

Alleged Confession to Tony Brown

By sworn affidavit, Mr. Tony Brown stated Nathaniel Lawson (who was incarcerated with him) told him he had shot Ms. Marshall and Ms. Williams. He said Mr. Lawson stated he was paid, by Albert Young, to shoot the women because Ms. Williams had not paid Mr. Young for heroin Ms. Marshall stole from him. He said he was never caught, and Mr. Williams and Mr. Myers were serving time for the shooting. Mr. Brown said Mr. Lawson told him he had looked through the bedroom window to see where Ms. Williams was, he shot from outside the window, and then ran to the back of the apartments and jumped over a fence to get into a vehicle driven by Rico Rivers.[95]

Mr. Brown had known Mr. Myers only as "Nate" while incarcerated, but once he learned "Nate" was Hubert Nathan Myers–he shared this information and Mr. Myers requested he write it down.[96]

Alleged Confession to Leatrice Carter

Leatrice Carter told the CIR director that Mr. Lawson confessed to her in the early 1990s at the tavern she and her husband owned. Mr. Lawson allegedly told her Mr. Williams did not commit the crime and admitted that he was the one who committed the crime. Ms. Carter also told the director Mr. Lawson said the only people who were mad were "Dot and Frank" (Clifford Williams's siblings and Nathan Myers's mother and uncle).[97]

Alleged Confession to Frank Williams

The third person to whom Mr. Lawson allegedly confessed is Franks Williams (brother of Clifford Williams and uncle to Nathan Myers). Mr. F. Williams, who had dated Diane Lawson (sister of Nathaniel Lawson) stated he actually confronted Mr. Lawson when he heard he may have been involved and told

[94] Special Master Hearing, Testimony of Shelley Thibodeau at 3:13:50–3:15:55. Mr. Lawson died in 1994. *Id*.
[95] Sworn Affidavit, Tony Brown, 1–2 (October 21, 2014); *see* CIR Report at 20.
[96] *Id*.
[97] CIR Report at 21.

the director Mr. Lawson said he was "staying out of it" and did not want to speak about it.[98]

Years after the first interaction, Mr. F. Williams told the director that he saw Ms. Lawson and she said her brother was "sick and might want to clear his conscience," so Mr. F. Williams had a meeting arranged with Mr. Lawson. Mr. F. Williams said Mr. Lawson requested the meeting be in public, gave details of the interaction, and said Mr. Lawson ultimately confessed to shooting the women because one of the women was stealing from him and he had to send a message. Mr. Lawson also allegedly admitted to giving money to Dot (sister of Clifford and Frank Williams and mother of Nathan) for Mr. Myers and Mr. Williams. Mr. F. Williams said his sister confirmed she had received money from Mr. Lawson for the incarcerated men.[99]

Alleged Confession to James Stepps

James Stepps was the fourth individual to tell the CIR director Mr. Lawson confessed to him and the director found Mr. Stepps to be "most credible."[100] Mr. Stepps was friends with Mr. Lawson through his death and said, not long before he died, Mr. Lawson indicated he had killed Ms. Williams and wanted to send money to Mr. Williams.[101] Mr. Lawson allegedly wondered aloud and stated, "What can I do? I can't turn myself in."[102] Mr. Stepps did not ask questions, believed Mr. Lawson, and–because he believed his friend was telling him this in confidence–he would not have come forward if Mr. Lawson were alive.[103]

The CIR director was able to place Nathaniel Lawson at the scene when reviewing the materials a second time because, in reviewing the deposition of Barbara Williams (Mr. Williams's wife), she referenced leaving with a group of individuals including Nathaniel Lawson.[104]

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[98] *Id*. at 22.
[99] *Id*.
[100] Special Master Hearing, Testimony of Shelly Thibodeau at 3:29:00–3:29:00.
[101] CIR Report at 23.
[102] *Id*.
[103] *Id*.
[104] Special Master Hearing, Testimony of Shelley Thibodeau at 1:54:30–1:56:05. The others in the group leaving with Ms. Barbara Williams were a woman named "Cookie" and a man named Rico Rivers. This is the same group, with the addition of Mr. Myers and Mr. Williams, the CIR director found, via witness interviews and prior testimony, had arrived to the party together. *Id*. at 1:59:40–1:59:55.

A Court Determined Mr. Myers is Eligible for Compensation and Demonstrated Clear and Convincing Evidence of Actual Innocence

After the CIR Division's investigation and the vacation of convictions and sentences of Mr. Myers and Mr. Williams, Mr. Myers sought statutory relief. He filed a petition for compensation under the Victims of Wrongful Incarceration Compensation Act,[105] and on September 10, 2019, the court in which he sought relief determined he is eligible to receive compensation and demonstrated actual innocence by clear and convincing evidence as required by statute.[106]

The findings of the CIR Division's investigation and report pertain to Mr. Williams, as well; however, Mr. Williams seeks relief through a claim bill because he has two prior felonies. State law currently precludes Mr. Williams from eligibility for compensation through the statutory process.

The undersigned sought clarification as to the scope of the investigation and report of the CIR Division. The director confirmed the scope of the finding of substantial evidence of actual innocence was applicable with regard to any involvement in the crime in the murder and attempted murder. The CIR director noted an inability to uncover any evidence to support the conviction of Mr. Williams[107] and was not able to find any evidence Mr. Williams is anything other than innocent.[108] Significantly, the director noted there was no evidence to suggest either Mr. Williams or Mr. Myers had been involved in any capacity;[109] and a member of the audit board, a former prosecutor, indicated he is "as confident as [he] can get" with regard to Mr. Williams's innocence.[110]

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[105] Chapter 961, Fla. Stat.

[106] Order Granting Petition of Wrongful Incarceration and Eligibility for Compensation Pursuant to the "Victims of Wrongful Incarceration Act" of Florida, State of Fla. v. Hubert Nathan Myers, No. 76-CF-000912 (Fla. 4th Circ. Ct.) (Sept. 10, 2019). The order provides, "[t]he Petitioner has met the burden of establishing by clear and convincing evidence that the Petitioner committed neither the act nor the offense that served as the basis for the conviction and incarceration, and that the [P]etitioner did not aid, abet, or act as an accomplice to a person who committed the act or offense." *Id*.

[107] Special Master Hearing, Testimony of Shelley Thibodeau at 2:31:58–2:32:49.

[108] *Id*. at 3:17:21–3:19:34.

[109] Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).

[110] Special Master Hearing, Testimony of Raymond Reid at (3:40:50–3:47:27 and 3:50:58–3:51:16) (describing evidence he found significant in demonstrating Mr. Williams and Mr. Myers were wrongfully convicted and believing there are supported claims of actual innocence in this matter).

Lastly, counsel for the respondent (the State Attorney's Office of the Fourth Judicial Circuit) indicated, although his client expressed no position on the claim bill, he would agree "there is, in fact, substantial credible evidence of Mr. Williams's innocence" and "given that experienced lawyers and judges have gone before [him] and come to that same conclusion [he thinks] it would be disingenuous to suggest that is not the case."[111]

CONCLUSIONS OF LAW:

Generally, the standard of proof used in the claim bill process is preponderance of the evidence. The report for the one wrongful incarceration claim bill that passed since chapter 961 was created discussed the clear and convincing standard from the Victims of Wrongful Incarceration Act (Chapter 961), but ultimately applied the preponderance standard.[112]

Standard of Proof Used in Wrongful Incarceration Compensation Claims

Chapter 961 requires the petitioner provide evidence of "actual innocence" and a court to find the petitioner has provided clear and convincing evidence "the petitioner committed neither the act nor the offense that served as the basis for the conviction and incarceration, and that the petitioner did not aid, abet, or act as an accomplice to a person who committed the act or offense."[113]

For reference, the standard of clear and convincing evidence is defined as "[e]vidence indicating that the thing to be proved is highly probable or reasonably certain" and "is a greater burden than preponderance of the evidence, the standard applied in most civil trials, but less than evidence beyond a reasonable doubt, the norm for criminal trials."[114] Jury instructions provide clear and convincing evidence "is evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm belief, without hesitation, about the matter in issue."[115]

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[111] Special Master Hearing, Britt Thomas, counsel for the respondent at 4:19:00–4:20:19.
[112] Senate Special Master Report Re: CS/SB 2 (2012) (Nov. 1, 2011) (recommending relief regarding Mr. William Dillon's wrongful incarceration claim); *see also* Ch. 2012–229, Laws of Fla.
[113] Section 961.03(3), Fla. Stat.
[114] Bryan A. Garner, Black's Law Dictionary (2006).
[115] *E.g.*, In re Standard Jury Instruction in Criminal Cases–Report 2012–07, 122 So.3d 302 (Mem) (Fla. 2013); Standard Jury Instructions–Civil Cases (No. 98–3), 720 So.2d 1077 (Mem) (Fla. 2008).

Statutory Compensation
Compensation for an eligible individual who meets the standard includes $50,000 for each year of wrongful incarceration; a waiver of tuition and fees for up to 120 hours of instruction at a career center, Florida College System institution, or any state university; the amount of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person; and the amount of attorney's fees and expenses incurred by the wrongfully incarcerated person. Per statute, the total amount awarded may not exceed $2 million.[116]

Credibility of Ms. Marshall's Testimony
Although only able to read prior depositional and trial testimony and handwritten documents from Ms. Marshall, serious concerns exist regarding the credibility of her statements when compared to substantiated physical evidence and consistent statements of other witnesses.

Physical Evidence Demonstrates the Shooting Did Not Occur as Ms. Marshall Described
Of great significance, undercutting Ms. Marshall's credibility is the physical evidence does not support her account. Additionally, information and details provided by Ms. Marshall varied. Some of the variations previously described include: stating she laid over Ms. Williams then indicating that did not happen; the different ways she described falling off of the bed; how many times she fell off of the bed; and at what point she claimed she saw the alleged shooters.

The CIR Director was Unable to Develop Information Supporting other Statements Made by Ms. Marshall
The director of the CIR Division stated there were attempts to verify some general statements made by Ms. Marshall during the investigation. These statements included attempts to substantiate Ms. Marshall's claims of having been married twice, having children, and the name of her father and where he lived.[117]

The director was unable to substantiate Ms. Marshall being married to the individuals she named or that she had children. Ms. Marshall claimed she had married a man named Eddie

[116] Section 961.06(1), Fla. Stat.
[117] *See* Special Master Hearing, Testimony of Shelley Thibodeau at 2:57:05–2:59:20 (describing these attempts and a finding that Ms. Marshall used approximately 30 aliases over time).

Lee Dyals. The CIR Division director noted although Mr. Dyals is deceased she was able to contact the widow of Mr. Dyals and she had never heard of Nina Marshall.[118] The director interviewed the other man Ms. Marshall claimed to have married, Mr. Felton Marshall, and he admitted knowing Ms. Marshall and using drugs with her but denied ever being married to Ms. Marshall.[119] The director was unable to develop information regarding Ms. Marshall having children and noted none of the women in the neighborhood had ever met children of Ms. Marshall.[120]

Conclusion Based upon Findings of Fact and Substantiated and Credible Evidence

The physical evidence demonstrates the shooting did not occur as Ms. Marshall described. Although, the physical evidence does not go to the identity of who committed the shooting, it greatly undercuts the credibility of Ms. Marshall. The undersigned does not find Ms. Marshall's testimony credible.

The testimony of Ms. Marshall was the only tie of Mr. Williams and Mr. Myers to the commission of the crime. From the materials submitted during the special master hearing process, the undersigned does not find evidence to substantiate Mr. Williams committing the shooting of Ms. Williams and Ms. Marshall. To the contrary, the statements of alibi witnesses made to the police in 1976, in depositions in 1976, and in interviews during the CIR investigation corroborate Mr. Williams and Mr. Myers being at a party while shots were heard.

The materials presented did not include any substantiated evidence with regard to Mr. Williams being otherwise involved. While Ms. Marshall alleged various motives–the evidence provided did not substantiate any of them. While the undersigned had questions with regard to the statement Mr. Williams allegedly made (according to Mr. Snype whose written statement provides he was told about the alleged statement by Mr. Gordon), the truthfulness, significance, and context of the statement is unknown. There were no other

[118] *See* Deposition, Nina Marshal, 4–5; Witness Chart; Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).
[119] Special Master Hearing, Testimony of Shelley Thibodeau at 2:57:05–2:59:20; Witness Chart; Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).
[120] Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).

similar statements to compare this piece of information. This unsubstantiated piece of evidence is not enough to undercut the numerous, consistent statements of alibi witnesses, or the four individuals who stated another man had confessed to the crime.

Therefore, given the evidence provided during the claim bill process, which included:

- the CIR Division's report, testimony from the director and a member of the independent audit board, and the press conference of the State Attorney supporting a finding of substantial evidence of actual innocence;
- a showing of physical evidence contradicting testimony of the only surviving victim through the report of an independent crime scene recreationist;
- the eye witness's inconsistent statements and statements contradicting physical evidence;
- individuals stating another person, Mr. Nathaniel Lawson, confessed to the shooting;
- alibi witnesses stating Mr. Williams was at a party with them at the time the shots rang out;
- the finding of a court that Mr. Myers successfully demonstrated clear and convincing evidence of actual innocence for the same crime using the same CIR Division report and findings in seeking statutory relief; and
- other information addressed in this report, the CIR Division's report, and provided before, during, and after the special master hearing,

the undersigned finds the claimant has demonstrated actual innocence by clear and convincing evidence.

Although the amount of $2,150,000 in the bill exceeds the cap available in the statutory process, the undersigned finds the amount is reasonable as it is close to the calculation of years served multiplied by the statutory amount of $50,000 per year of wrongful incarceration.[121]

Lastly, although the claim bill includes coverage for 120 hours of instruction, counsel for Mr. Williams indicated he would not be able to utilize compensation related to the 120 hours of

[121] Mr. Williams served 42 years and 11 months. The amount of 42.92 years multiplied by $50,000 equals $2,145,833.33.

educational instruction given his advanced age and health and is not seeking the educational compensation.[122]

ATTORNEY FEES:

The bill does not allocate any funds for attorney or lobbying fees. Additionally, the claimant's counsel, Mr. George E. Schulz, Jr. of Holland and Knight, provided a closing statement indicating, "representation of Mr. Williams is on a pro bono basis and that there are no fees, expenses or costs associated with the claim."

RECOMMENDATIONS:

Per Mr. Williams's counsel representing he is not seeking the educational component of compensation provided in the bill, the undersigned recommends deleting lines 83–92 of SB 28.

Based upon the information and evidence provided before, during, and after the special master hearing, the undersigned finds the claimant has demonstrated actual innocence by clear and convincing evidence and the amount sought is reasonable.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

[122] Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).

By Senator Gibson

6-00176-20 202028__

A bill to be entitled

An act for the relief of Clifford Williams; providing an appropriation to compensate him for being wrongfully incarcerated for 43 years; directing the Chief Financial Officer to draw a warrant for the purchase of an annuity; requiring the Department of Financial Services to pay specified funds; providing for the waiver of certain tuition and fees for Mr. Williams; specifying conditions for payment; providing that the act does not waive certain defenses or increase the state's limits of liability; prohibiting any further award to include certain fees and costs; providing that certain benefits are vacated upon specified findings; providing an effective date.

WHEREAS, Clifford Williams was arrested on May 2, 1976, and convicted of first-degree murder and first-degree attempted murder on September 2, 1976, and

WHEREAS, Clifford Williams spent 4 years on death row before the Florida Supreme Court reversed his death sentence in 1980, and

WHEREAS, Clifford Williams has maintained his innocence, and

WHEREAS, on February 25, 2019, the Conviction Integrity Review Division (CIR) for the Office of the State Attorney for the Fourth Judicial Circuit issued a report and recommendation, based on a comprehensive investigation spanning nearly a year, in Clifford Williams' case, and

WHEREAS, on March 28, 2019, the Circuit Court for the

6-00176-20 202028__

Fourth Judicial Circuit granted, with the concurrence of the state, a motion for postconviction relief, vacated the judgment and sentence of Clifford Williams, and ordered a new trial, and

WHEREAS, on March 28, 2019, the state orally pronounced a nolle prosequi with regard to the retrial of Clifford Williams, and

WHEREAS, the report found that there was no credible evidence of Clifford Williams' guilt, and likewise, that there was substantial credible evidence of Clifford Williams' innocence, and

WHEREAS, the Legislature acknowledges that the state's system of justice yielded an imperfect result that had tragic consequences in this case, and

WHEREAS, the Legislature acknowledges that, as a result of his physical confinement, Clifford Williams suffered significant damages that are unique to Clifford Williams, and such damages are due to the fact that he was physically restrained and prevented from exercising the freedom to which all innocent citizens are entitled, and

WHEREAS, before his conviction for the above-mentioned crimes, Clifford Williams had two prior convictions for unrelated felonies, and

WHEREAS, because of his prior violent felony convictions, Clifford Williams is ineligible for compensation under chapter 961, Florida Statutes, and

WHEREAS, the Legislature is providing compensation to Clifford Williams to acknowledge the fact that he suffered significant damages that are unique to Clifford Williams for being wrongfully incarcerated, and

WHEREAS, the CIR's comprehensive investigation of the matter found verifiable and substantial evidence of Clifford Williams' actual innocence of first-degree murder and first-degree attempted murder, and

WHEREAS, the Legislature apologizes to Clifford Williams on behalf of the state, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The sum of $2,150,000 is appropriated from the General Revenue Fund to the Department of Financial Services under the conditions provided in this act.

Section 3. The Chief Financial Officer is directed to draw a warrant in the sum specified in section 2 for the purposes provided in this act.

Section 4. The Department of Financial Services shall pay the funds appropriated under this act to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state and selected by Clifford Williams to purchase an annuity. The Chief Financial Officer shall execute all necessary agreements to implement this act and to maximize the benefit to Clifford Williams.

Section 5. Tuition and fees for Clifford Williams shall be waived for up to a total of 120 hours of instruction at any career center established pursuant to s. 1001.44, Florida Statutes, Florida College System institution established under part III of chapter 1004, Florida Statutes, or state university.

For any educational benefit made, Clifford Williams must meet and maintain the regular admission and registration requirements of such career center, institution, or state university and make satisfactory academic progress as defined by the educational institution in which he is enrolled.

Section 6. The Chief Financial Officer shall purchase the annuity as required by this act upon delivery by Clifford Williams to the Chief Financial Officer, the Department of Financial Services, the President of the Senate, and the Speaker of the House of Representatives of a release executed by Clifford Williams for himself and on behalf of his heirs, successors, and assigns which fully and forever releases and discharges the state and its agencies and subdivisions, as defined by s. 768.28(2), Florida Statutes, from any and all present or future claims or declaratory relief that Clifford Williams or any of his heirs, successors, or assigns may have against the state and its agencies and subdivisions, as defined by s. 768.28(2), Florida Statutes, arising out of the factual situation in connection with the arrest, conviction, and incarceration for which compensation is awarded. Without limitation on the foregoing, the release must specifically release and discharge Sheriff Mike Williams of the Jacksonville Sheriff's Office in his official capacity, and any current or former sheriffs, deputies, agents, or employees of the Jacksonville Sheriff's Office in their individual capacities, from all claims, causes of action, demands, rights, and claims for attorney fees or costs, of whatever kind or nature, whether in law or equity, including, but not limited to, any claims pursuant to 42 U.S.C. s. 1983, that Clifford Williams had, has,

or might hereinafter have or claim to have, whether known or not, against the Jacksonville Sheriff's Office, and Sheriff Mike Williams' assigns, successors in interest, predecessors in interest, heirs, employees, agents, servants, officers, directors, deputies, insurers, reinsurers, and excess insurers, in their official and individual capacities, and that arise out of, are associated with, or are a cause of the arrest, conviction, and incarceration for which compensation is awarded, including any known or unknown loss, injury, or damage related to or caused by the same and which may arise in the future. However, this act does not prohibit declaratory action by a judicial or executive branch agency, as otherwise provided by law, for Clifford Williams to obtain judicial expungement of his criminal history record as related to the arrest and convictions for first-degree murder and first-degree attempted murder.

Section 7. The Legislature does not waive any defense of sovereign immunity or increase the limits of liability on behalf of the state or any person or entity that is subject to s. 768.28, Florida Statutes, or any other law.

Section 8. This award is intended to provide the sole compensation for any and all present and future claims arising out of the factual situation described in this act which resulted in Clifford Williams' arrest, conviction, and incarceration. There may not be any further award to include attorney fees, lobbying fees, costs, or other similar expenses to Clifford Williams by the state or any agency, instrumentality, or political subdivision thereof, or any other entity, including any county constitutional officer, officer, or employee, in state or federal court.

Section 9. If any future factual finding determines that Clifford Williams, by DNA evidence or otherwise, participated in any manner related to the death of Jeanette Williams or the attempted murder of Nina Marshall, the unused benefits to which Clifford Williams is entitled under this act are vacated.

Section 10. 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:	SB 118
INTRODUCER:	Senator Gruters
SUBJECT:	Security in Trial Court Facilities
DATE:	February 19, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	**Favorable**
2.	Jameson	Jameson	ACJ	**Recommend: Favorable**
3.	Jameson	Kynoch	AP	**Favorable**

I. Summary:

SB 118 addresses the decision-making authority and responsibilities of two constitutional officers, the chief judge of a circuit court and the county sheriff, in providing court security. In a recent case before the Second District Court of Appeal, the court resolved the competing claims of authority and responsibility at issue in the case by holding that a chief circuit judge may require a sheriff in the circuit, because the sheriff is an officer of the court, to comply with the judge's order requiring the sheriff to provide security at court facilities.

The bill reiterates that sheriffs are officers of the court, and requires each sheriff to coordinate with his or her local chief judge and county commissioners in developing a court security plan. However, the bill provides that sheriffs retain authority to implement and provide law enforcement services associated with the plan. Finally, the bill provides that the chief judge retains decision-making authority to carry out his or her administrative functions concerning the protection of due process rights and the scheduling and conduct of trials and other judicial proceedings.

The bill has an indeterminate fiscal impact. See Section V.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Context: A 2017 District Court of Appeal Opinion

In 2017, a controversy arose regarding the authority of the Chief Judge of the Twelfth Circuit to require the Sarasota County Sheriff to provide security at certain court facilities.[1] This

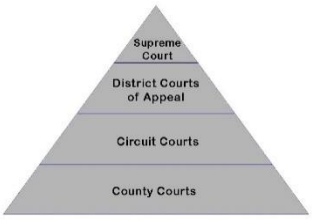
[1] *See generally Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 235 So. 3d 996 (Fla. 2d DCA 2017).

culminated in a District Court of Appeal Opinion in which the Court held that a chief circuit judge may compel the sheriffs of his or her circuit to provide security at all court facilities, including those at which no sessions of court (such as trials or hearings) are held.[2]

Florida's Court System

The Florida Constitution vests all judicial power in:

- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.[3]



The Constitution provides that "[n]o other courts may be established by the state, any political subdivision or any municipality."[4]

Court System Administration

The Constitution vests the Florida Supreme Court with broad authority to administer the state courts system and establish court rules of procedure.[5] The chief justice of the Florida Supreme Court is constitutionally designated as the "chief administrative officer of the judicial system."[6] The Constitution also directs that a chief judge be chosen for each district court of appeal and each circuit court.[7]

Chief Judge of the Circuit Court

The chief judge of the circuit court has administrative supervision responsibility for the circuit court, as well as the county courts within his or her circuit.[8] Currently, there are 20 judicial circuits and 67 county courts, one in each of Florida's 67 counties,[9] as constitutionally required.[10]

The following maps illustrate the territorial jurisdictions of the circuit and county courts. Some circuits contain multiple counties, particularly in North Florida, whereas some circuits contain only one county, particularly in the larger metropolitan areas in Central and South Florida:[11]

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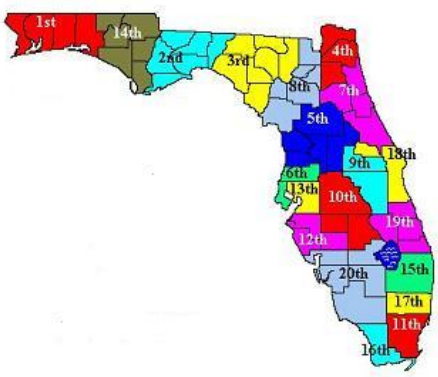
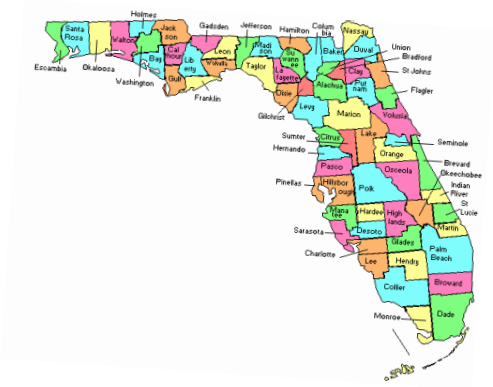
[2] *Id.*
[3] FLA. CONST. art. V., s. 1.
[4] *Id.* (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).
[5] FLA. CONST. art. V, s. 2(a).
[6] FLA. CONST. art. V, s. 2(b).
[7] FLA. CONST. art. V, s. 2(c), (d).
[8] FLA. CONST. art. V, s. 2(d). Additionally, the chief judge is constitutionally chosen "as provided by supreme court rule." *Id.*
[9] Florida Courts, *Court System Organization & Structure*, http://www.flcourts.org/florida-courts/ (last visited Sept. 10, 2019).
[10] FLA. CONST. art. V, s. 6(a) ("There shall be a county court in each county.").
[11] Ron DeSantis, 46th Governor of Florida, Judicial and Judicial Nominating Commission Information, *The Florida Court System*, https://www.flgov.com/judicial-and-judicial-nominating-commission-information/ (last visited Sept. 10, 2019).



Twenty Judicial Circuits



Sixty-Seven Counties

The chief judge exercises "administrative supervision over all the trial courts within the judicial circuit and over the judges and other officers of such courts."[12] In exercising his or her responsibility, the chief judge has the power to:

- Assign judges to court divisions and determine the length of the assignment.
- Regulate the use of courtrooms.
- Supervise dockets and calendars.
- Require attendance of all other officers of the court.
- Do everything necessary to promote the prompt and efficient administration of justice in the courts.
- Delegate to the trial court administrator, by administrative order, the authority to bind the circuit in contract.
- Manage, operate, and oversee the jury system.
- Report data to the Chief Justice of the Supreme Court concerning the circuit's caseload, status of dockets, disposition of cases, and other relevant information.
- Consult with the clerk of court to determine the priority of services provided by the clerk to the trial courts.[13]

County Responsibilities for Funding Court-Related Functions

Under Article V, s. 14 of the Florida Constitution, the state is responsible for most of the costs of the state courts system. However, the Constitution requires counties to:

> [F]und the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and *security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.*[14]

[12] Section 43.26, F.S.
[13] *Id.*
[14] Emphasis added.

The constitutional responsibility for counties to fund court-related functions is implemented in s. 29.008, F.S., which also defines many of the key terms from the constitutional provision above. Among these terms, s. 29.008(1)(a), F.S. defines "facility" as follows:

> "Facility" means reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders' offices, state attorneys' offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term "facility" includes all wiring necessary for court reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. . . .
> 1. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel. Court reporting equipment in these areas or facilities is not a responsibility of the county.
> 2. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders, shall be transferred to the state at no charge. This provision does not apply to any communications services as defined in paragraph (f).

Additionally, s. 29.008(1)(e), F.S. defines "security" as follows:

> "Security" includes but is not limited to, all reasonable and necessary costs of services of *law enforcement officers or licensed security guards* and all electronic, cellular, or digital monitoring and screening devices necessary to ensure the safety and security of all persons visiting or working in a facility; to provide for security of the facility, including protection of property owned by the county or the state; and for security of prisoners brought to any facility. This includes bailiffs while providing courtroom and other security for each judge and other quasi-judicial officers.[15]

Sheriffs

Sheriffs are constitutional county officers.[16] As a constitutional officer, a sheriff exercises independent authority and discretion in carrying out his or her various duties and in appointing

[15] Emphasis added.
[16] FLA. CONST. art. VIII, s. (d).

and disciplining deputies.[17] The sheriff's duties include, among other things, conserving the county peace by suppressing riots and making arrests as necessary; and executing process on behalf of the Florida Supreme Court, circuit courts, county courts, and board of county commissioners in the sheriff's county.[18]

Sheriffs' Courtroom Duties

The sheriff is "the executive officer of the circuit court of the county."[19] Accordingly, the sheriff or his or her deputies must execute all service of court process in both civil and criminal matters and attend all sessions of court.[20] In attending all sessions of court, the sheriff or his or her deputies serve as bailiffs and take charge of the jury, carry out service of process, keep order, and so forth. In addition, it is the sheriff, not the chief judge, who appoints any deputy to serve as a bailiff in a courtroom.[21]

Beyond the Courtroom: Security in other Court Facilities

Although sheriffs and their deputies are required to serve as bailiffs in the courtrooms around the state, unless contracted to do so with the county government, the sheriffs are not constitutionally or statutorily required to take responsibility for the security of all court facilities. Rather, county governments are responsible to provide for and fund security for court facilities and, as set out in s. 29.008(1)(e), F.S., security may be provided by "law enforcement officers" such as municipal police officers,[22] or "licensed security guards."

III. Effect of Proposed Changes:

This bill addresses the decision-making authority and responsibilities of two constitutional officers, the chief judge of a circuit court and the county sheriff, in providing court security. In a recent case before the Second District Court of Appeal, the court resolved the competing claims of authority and responsibility at issue in the case by holding that a chief circuit judge may require a sheriff in the circuit, because the sheriff is an officer of the court, to comply with the judge's order requiring the sheriff to provide security at court facilities.

The bill reiterates that sheriffs are officers of the court, and requires each sheriff to coordinate with his or her local chief judge and county commissioners in developing a court security plan. However, the bill provides that sheriffs retain authority to implement and provide law enforcement services associated with the plan. Finally, the bill provides that the chief judge retains decision-making authority to carry out his or her administrative functions concerning the protection of due process rights and the scheduling and conduct of trials and other judicial proceedings.

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[17] *See generally Demings v. Orange County Citizens Review Bd*., 15 So. 3d 604, 610–11 (Fla. 5th DCA 2009).
[18] *See generally* s. 30.15, F.S.
[19] Section 26.49, F.S. *See also* s. 34.07, F.S. (sheriff is executive officer of county courts).
[20] Section 30.15(1)(a)-(c), F.S.
[21] *State ex rel. Wainwright v. Booth*, 291 So. 2d 74, 76–77 (Fla. 2d DCA 1974), *writ discharged sub nom. Booth v. Wainwright*, 300 So. 2d 257 (Fla. 1974).
[22] Section 943.10(1), F.S. ("Law enforcement officer means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state").

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Art. VII, s. 18 of the Florida Constitution.

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 bill's "Government Sector" fiscal impact is indeterminate. As the primary funding source for the sheriffs, the county commissioners are required to assist in the development of the comprehensive security plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 30.15 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 Gruters

23-00190-20 2020118__

A bill to be entitled

An act relating to security in trial court facilities; amending s. 30.15, F.S.; requiring sheriffs to coordinate with certain boards of county commissioners and chief judges to develop a comprehensive plan for security of trial court facilities; specifying that sheriffs and chief judges retain certain authorities; specifying that sheriffs and their deputies, employees, and contractors are officers of the court under specified circumstances; providing an effective date.

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

Section 1. Subsection (4) is added to section 30.15, Florida Statutes, to read:

30.15 Powers, duties, and obligations.—

(4)(a) In accordance with each county's obligation under s. 14, Art. V of the State Constitution and s. 29.008 to fund security for trial court facilities, the sheriff of each county shall coordinate with the board of county commissioners of that county and the chief judge of the circuit in which that county is located on the development of a comprehensive plan for the provision of security for trial court facilities. Each sheriff shall retain authority over the implementation and provision of law enforcement services associated with the plan. The chief judge of the circuit shall retain decision-making authority to ensure the protection of due process rights, including, but not limited to, the scheduling and conduct of trials and other

23-00190-20 2020118__

judicial proceedings as part of his or her responsibility for the administrative supervision of trial courts under s. 43.26.

(b) Sheriffs and their deputies, employees, and contractors are officers of the court when providing security for trial court facilities under this subsection.

Section 2. This act shall take effect July 1, 2020.

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

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

January 30, 2020

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 118, Security in Trial Court Facilities to 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,

Joe Gruters

cc: Cynthia Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

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)

2/20/2020
Meeting Date

118
Bill Number (if applicable)

Topic SECURITY IN TRIAL COURT FACILITIES

Amendment Barcode (if applicable)

Name TONNETTE GRAHAM

Job Title

Address 100 S. Monroe St.
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone 922.4300

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL ASSOC OF COUNTIES

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 218
INTRODUCER:	Health Policy Committee and Senator Harrell
SUBJECT:	Licensure Requirements for Osteopathic Physicians
DATE:	February 19, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	**Fav/CS**
2.	Howard	Kynoch	AP	**Favorable**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 218 updates the osteopathic internship and residency accrediting agencies to include the Accreditation Council for Graduate Medical Education (ACGME) and repeals the Board of Osteopathic Medicine's (BOOM) authority to approve other internship programs upon showing of good cause.

The bill has an insignificant fiscal impact on the Department of Health that can be absorbed within existing resources.

The bill takes effect upon becoming law.

II. Present Situation:

Osteopathic Physicians

There are two types of medical physicians fully licensed to practice in Florida. Those holding the M.D. degree – doctor of allopathic medicine – licensed under ch. 458, F.S.; and those holding the D.O. degree – doctor of osteopathic medicine – licensed under ch. 459, F.S. Both types of physicians are licensed in Florida to perform surgery and prescribe medicine in hospitals, clinics, and private practices, as well as throughout the U.S. Osteopathic physicians offer all the same services as M.D.s.

Osteopathic physicians can specialize in every recognized area of medicine, from neonatology to neurosurgery, but more than half of all osteopathic physicians practice in primary care areas, such as pediatrics, general practice, obstetrics/gynecology, and internal medicine.[1]

Osteopathic Residencies and Florida Licensure

After acquiring a four-year undergraduate college degree with requisite science classes, students are accepted into one of the nation's 21 osteopathic medical schools accredited by the Bureau of Professional Education of the American Osteopathic Association (AOA). Following graduation, osteopathic physicians complete an approved 12-month internship. Interns rotate through hospital departments, including internal medicine, family practice, and surgery. They may then choose to complete a residency program in a specialty area, which requires two to six years of additional training.[2]

Any person desiring to be licensed, or certified, as an osteopathic physician in Florida must:

- Submit an application with a fee;
- Be at least 21 years of age;
- Be of good moral character;
- Have completed at least three years of pre-professional postsecondary education;
- Have not previously committed any act that would constitute a violation of ch. 459, F.S.;
- Not be under investigation anywhere for an act that would constitute a violation of ch. 459, F.S.;
- Have not been denied a license to practice osteopathic medicine, or had his or her osteopathic medicine license revoked, suspended, or otherwise acted against by any jurisdiction;
- Have met the criteria for:
  - A limited license under s. 459.0075, F.S.;
  - An osteopathic faculty certificate under s. 459.0077, F.S.; or,
  - A resident physician, intern, or fellow under s. 459.021, F.S.;
- Demonstrate that he or she is a graduate of a medical college recognized and approved by the AOA;
- Demonstrate that he or she has successfully completed a resident internship of not less than 12 months in a hospital approved by the Board of Trustees of the AOA or any other internship program approved by the Board of Osteopathic Medicine (BOOM) upon a showing of good cause; and
- Demonstrate that he or she has achieved a passing score, established by rule of the BOOM, on all parts of the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the BOOM no more than five years before making application.[3]

[1] Florida Osteopathic Medical Association, *Osteopathic Medicine*, available at: http://www.foma.org/osteopathic-medicine.html (last visited Sept 9, 2019).
[2] *Id.*
[3] Section 459.0055, F.S.

The Accreditation Council for Graduate Medical Education (ACGME)

The ACGME is a non-profit corporation whose mission is to improve health care and population health by assessing and advancing the quality of resident physicians' graduate medical education through accreditation. Accreditation is achieved through a voluntary process of evaluation and review based on published accreditation standards. ACGME accreditation provides assurance that a sponsoring institution or program meets the quality standards (institutional and program requirements) of the specialty or subspecialty practice(s) for which it prepares its graduates.

The ACGME accreditation is overseen by a review committee made up of volunteer specialty experts from the field that set accreditation standards and provide peer evaluation of sponsoring institutions and specialty and subspecialty residency and fellowship programs.[4]

The ACGME was established by five medical organizations in 1981[5] and, in 2014, was joined by the AOA and the American Association of Colleges of Osteopathic Medicine. A primary responsibility of each of the organizations is to nominate individuals to be considered for membership on the ACGME Board of Directors. The ACGME board currently includes 24 members nominated by member organizations, two resident members, three public directors, four at-large directors, the chair of the Council of Review Committee Chairs, and two non-voting federal representatives.

The ACGME sets standards for graduate medical education (GME) and renders residency accreditation decisions based on compliance with those standards. The member organizations are corporately separate from the ACGME and do not participate in accreditation, pay dues, or make any other monetary contribution to the ACGME. In Academic Year 2018-2019, there were approximately 11,700 ACGME-accredited residency and fellowship programs in 181 specialties and subspecialties at approximately 850 Sponsoring Institutions. There were approximately 140,500 active full and part time residents and fellows. One out of seven active physicians in the United States is a resident or fellow.[6]

By June 2020, all osteopathic residency programs for GME will need to be ACGME accredited. As the AOA guides residency programs through the process, resident physicians will be protected throughout the transition. If a residency program does not achieve ACGME accreditation by June 2020, a resident who has not completed the required training will be able to complete AOA-accredited training and advance to AOA board eligibility. This is the result of an agreement between the AOA, the ACGME, and the American Association of Colleges of Osteopathic Medicine (AACOM) that gives the AOA restricted authority to extend the AOA accreditation date to allow any remaining resident physicians to finish training in an accredited

[4] American Council of Graduate Medical Education, *What We Do*, available at: https://www.acgme.org/What-We-Do/Overview (last visited Sept. 9, 2019).
[5] American Council of Graduate Medical Education, *Member Organizations*, available at: https://www.acgme.org/About-Us/Overview/Member-OrganiAs%20of%20zations (last visited Sept. 9, 2019). The five organization are: The American Board of Medical Specialists, The American Hospital Association, The American Medical Association, The Association of American Medical Colleges, and Council of Medical Specialty Societies.
[6] American Council of Graduate Medical Education, *About Us*, available at: https://www.acgme.org/About-Us/Overview (last visited Sept. 10, 2019)

program. If a resident physician's program does not achieve ACGME accreditation by June 2020, he or she may also be able to transfer to another ACGME accredited program.[7]

The National Resident Matching Program

The National Resident Matching Program (NRMP) is a private, not-for-profit corporation established in 1952 to optimize the rank-ordered choices of applicants and program directors for residencies and fellowships. The NRMP is not an application processing service. Instead, it provides an impartial venue for matching applicants' and programs' preferences for each other using an internationally recognized mathematical algorithm.

The first Main Residency Match® ("Match") was conducted in 1952 when 10,400 internship positions were available for 6,000 graduating U.S. medical school seniors. By 1973, there were 19,000 positions for just over 10,000 graduating U.S. seniors. Following the demise of internships in 1975, the number of first-year post-graduate (PGY-1) positions declined to 15,700. The number of PGY-1 positions gradually increased through 1994 and then began to decline slowly until 1998. In 2019, there was an all-time high of 32,194 PGY-1 positions offered. The total number of positions offered, including, PGY-1 and second-year post-graduates (PGY-2), was also at an all-time high of 35,185.[8]

Beginning in 2014, osteopathic medical school graduates could participate in the Match, which opened up additional residency programs available to osteopathic medical graduates.[9] In 2019, 6001 osteopathic candidates applied to the Match and 5077 matched – an 84.6 percent match rate.[10] By June 2020, an osteopathic residency program will need to be accredited by ACGME to participate in the Main Residency Match.[11]

All residents who have completed an AOA- or ACGME-accredited residency program are eligible for AOA board certification. AOA board certification is a quality marker for patients that highlights the commitment to the uniquely osteopathic approach to patient care and allows engagement in continuous professional development throughout a career. Requirements are slightly different for osteopathic medical physicians pursuing certification through the American Board of Medical Specialties (ABMS). The ABMS requires candidates' residency programs to have been ACGME-accredited for a specified amount of time. Requirements vary by specialty.[12]

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[7] American Osteopathic Association, *What does single GME mean for DO resident physicians?* available at: https://osteopathic.org/residents/resident-resources/residents-single-gme/ (last visited Oct. 17, 2019).
[8] The Match, National Resident Matching Program, Results and Data 2019 Main Residency Match, *About the NRMP*, pp. v, 1, available at *https://mk0nrmp3oyqui6wqfm.kinstacdn.com/wp-content/uploads/2019/04/NRMP-Results-and-Data-2019_04112019_final.pdf* (last visited Sept. 9, 2019).
[9] The Accreditation Council for Graduate Medical Education, *Member Organizations*, available at: https://www.acgme.org/About-Us/Member-Organizations, (last visited Sept. 10, 2019).
[10] *Supra* note 8.
[11] The Match, National Residency Match Program, *2020 Match Participation Agreement for Applicants and Programs*, available at: https://mk0nrmp3oyqui6wqfm.kinstacdn.com/wp-content/uploads/2019/09/2020-MPA-Main-Residency-Match-for-Applicants-and-Programs.pdf (last visited Sept. 10, 2019).
[12] *Id.*

III. Effect of Proposed Changes:

The bill amends s. 459.0055, F.S., to recognize the agreement between the AOA and the ACGME. Both organizations have committed to improving the patient care delivered by resident and fellow physicians today and in their future independent practice, and to do so in clinical learning environments characterized by excellence in care, safety, and professionalism, thereby creating a single path for GME.

This single path for GME allows osteopathic and allopathic medical school graduates to seek residencies and fellowship programs accreditation by ACGME. This will enable osteopathic medical school graduates, residents, and fellows to apply to the National Resident Match Program and participate in the Main Residency Match for internships, residencies, and fellowships, thereby creating more residency opportunities for osteopathic residents.
The bill deletes reference to the Board of Trustees of the AOA as an internship and residency accrediting organization during the transition to a single path for GME, while maintaining reference to the AOA, and repeals the BOOM's authority to accredit other internship programs upon a showing of good cause.

The bill will take 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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 218 will have an insignificant fiscal impact on the Department of Health (department). The department will experience an increase in workload associated with applicants for licensure and costs associated with rulemaking that can be absorbed within existing resources.[13]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 459.0055 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 Health Policy on October 22, 2019:
The CS makes technical changes and repeals the BOOM's authority to approve other internship programs upon a showing of good cause.

B. Amendments:

None.

[13] Florida Department of Health, analysis of SB 218 (October 18, 2019), on file with the Senate Appropriations Subcommittee on Health and Human Services.

By the Committee on Health Policy; and Senator Harrell

588-00987-20 2020218c1

A bill to be entitled

An act relating to licensure requirements for osteopathic physicians; amending s. 459.0055, F.S.; revising licensure requirements for persons seeking licensure or certification as an osteopathic physician; providing an effective date.

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

Section 1. Subsection (1) of section 459.0055, Florida Statutes, is amended to read:

459.0055 General licensure requirements.—

(1) Except as otherwise provided herein, any person desiring to be licensed or certified as an osteopathic physician pursuant to this chapter shall:

(a) Complete an application form and submit the appropriate fee to the department;

(b) Be at least 21 years of age;

(c) Be of good moral character;

(d) Have completed at least 3 years of preprofessional postsecondary education;

(e) Have not previously committed any act that would constitute a violation of this chapter, unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(f) Not be under investigation in any jurisdiction for an act that would constitute a violation of this chapter. If, upon completion of such investigation, it is determined that the

588-00987-20 2020218c1

applicant has committed an act that would constitute a violation of this chapter, the applicant is ineligible for licensure unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(g) Have not had an application for a license to practice osteopathic medicine denied or a license to practice osteopathic medicine revoked, suspended, or otherwise acted against by the licensing authority of any jurisdiction unless the board determines that the grounds on which such action was taken do not adversely affect the applicant's present ability and fitness to practice osteopathic medicine. A licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician, shall be considered action against the osteopathic physician's license;

(h) Not have received less than a satisfactory evaluation from an internship, residency, or fellowship training program, unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine. Such evaluation shall be provided by the director of medical education from the medical training facility;

(i) Have met the criteria set forth in s. 459.0075, s. 459.0077, or s. 459.021, whichever is applicable;

(j) Submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the

Department of Health for the criminal background check of the applicant;

(k) Demonstrate that he or she is a graduate of a medical college recognized and approved by the American Osteopathic Association;

(l) Demonstrate that she or he has successfully completed an internship or a residency ~~a resident internship~~ of not less than 12 months in a program accredited ~~hospital approved~~ for this purpose by ~~the Board of Trustees of~~ the American Osteopathic Association or the Accreditation Council for Graduate Medical Education ~~any other internship program approved by the board upon a showing of good cause by the applicant~~. This requirement may be waived for an applicant who matriculated in a college of osteopathic medicine during or before 1948; and

(m) Demonstrate that she or he has obtained a passing score, as established by rule of the board, on all parts of the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the board no more than 5 years before making application in this state or, if holding a valid active license in another state, that the initial licensure in the other state occurred no more than 5 years after the applicant obtained a passing score on the examination conducted by the National Board of Osteopathic Medical Examiners or other substantially similar examination approved by the board.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Policy, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Children, Families, and Elder Affairs
Military and Veterans Affairs and Space

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR GAYLE HARRELL
25th District

October 29, 2019

Senator Rob Bradley
201 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Bradley,

I respectfully request that **SB 218 – Licensure for Osteopathic Physicians** be placed on the next available agenda for the Appropriations Committee Meeting. SB 218 passed its last committee stop unanimously.

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

Thank you,

Gayle

Senator Gayle Harrell
Senate District 25

Cc: Cynthia Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:
❒ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
❒ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Policy, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Children, Families, and Elder Affairs
Military and Veterans Affairs and Space

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR GAYLE HARRELL
25th District

January 15, 2020

Senator Rob Bradley
201 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Bradley,

I respectfully request that **SB 218 – Licensure Requirements for Osteopathic Physicians** be placed on the next available agenda for the Appropriations Committee Meeting. SB 218 passed its last committee stops unanimously.

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

Thank you,

Senator Gayle Harrell
Senate District 25

Cc: Cynthia Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:
❒ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
❒ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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)

2/20/20
Meeting Date

SB 218
Bill Number (if applicable)

Topic OSTEOPathic Physicians

Amendment Barcode (if applicable)

Name Stephen WINN

Job Title Exec. Director

Address 2544 Blairstone Pines Drive
Street

Tall. Fla. 32301
City *State* *Zip*

Phone 850-878-3056

Email winnsn@gtlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. OSTEOPathic MEDICAL Assoc.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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 434
INTRODUCER:	Education Committee and Senator Montford
SUBJECT:	Designation of School Grades
DATE:	February 19, 2020
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 434 modifies the high school acceleration component of the school grading model to add to the calculation students who complete career certificate dual enrollment courses resulting in 300 or more clock hours that are identified by the State Board of Education (SBE).

The bill has no impact on state revenues or expenditures.

The bill take effect on July 1, 2020.

II. Present Situation:

School grades provide an easily understandable way to measure the performance of a school. Parents and the general public can use the school grade and its components to understand how well each school is serving its students.[1] School grades are used in the state system of school improvement and accountability to determine the need for school intervention and support,[2] or to determine whether a school is eligible for school recognition funds.[3]

[1] Florida Department of Education, *2019 School Grades Overview, available at* http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesOverview19.pdf.
[2] See s. 1008.33(4), F.S.
[3] See s. 1008.36, F.S.

Schools are graded using one of the following grades:[4]

- "A," schools making excellent progress (62 percent or higher of total applicable points).
- "B," schools making above average progress (54 to 61 percent of total applicable points).
- "C," schools making satisfactory progress (41 to 53 percent of total applicable points).
- "D," schools making less than satisfactory progress (32 to 40 percent of total applicable points).
- "F," schools failing to make adequate progress (31 percent or less of total applicable points).

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. All schools are graded on the percentage of eligible students who pass assessments in English Language Arts (ELA), mathematics, science, and social studies; student learning gains in ELA and mathematics; and students in the lowest 25 percent of ELA and mathematics performers who make learning gains.[5] Middle and high school models include additional components beyond the basic model.[6]

For a high school comprised of grades 9 through 12 or grades 10 through 12, the school's grade is also based on the following components:[7]

- The four-year high school graduation rate of the school as defined by State Board of Education (SBE) rule.[8]
- The percentage of students who were eligible to earn college and career credit through College Board Advanced Placement (AP) examinations, International Baccalaureate (IB) examinations, dual enrollment courses, or Advanced International Certificate of Education (AICE) examinations; or who, at any time during high school, earned a national industry certification identified in the career and professional education (CAPE) Industry Certification Funding List, pursuant to rules adopted by the SBE.

The SBE determines the examinations, dual enrollment courses, and industry certifications to be included in the school grades acceleration component, as follows:

- AP, IB, and AICE passing examination scores and applicable college credit[9] and CAPE industry certifications[10] are determined in SBE rule.

---

[4] Section 1008.34(2), F.S., and Rule 6A-1.09981(4)(d), F.A.C.

[5] Section 1008.34(3)(b), F.S. If a school does not have at least 10 students with complete data for one or more of the components, those components may not be used in calculating the school's grade. Section 1008.34(3)(a), F.S.

[6] See s. 1008.34(3)(b), F.S., and Rule 6A-1.09981(4)(a)-(c), F.A.C.

[7] Section 1008.34(3)(b)2., F.S., and Rule 6A-1.09981(4)(c)2. and 3., F.A.C.

[8] The four-year high school graduation rate of the school as measured according to 34 CFR s. 200.19, Other Academic Indicators, effective November 28, 2008. Rule 6A-1.09981(4)(c)1., F.A.C.

[9] The *Articulation Coordinating Committee Credit-by-Exam Equivalencies* establishes passing scores and course and credit equivalents for AP, AICE, IB, DANTES Subject Standardized Test (DSST), Defense Language Proficiency Test (DLPT), UExcel (Excelsior College Exams), and College-Level Examination Program (CLEP) exams. Public community colleges and universities in Florida are required to award the minimum recommended credit for AP, AICE, IB, DSST, DLPT, UExcel, and CLEP exams as designated. Section 1007.27(2), F.S., and Rule 6A-10.024(8)(a), F.A.C. *See also* Florida Department of Education, *Articulation Coordinating Committee Credit-by-Exam Equivalencies* (June 2019), *available at* https://www.flrules.org/gateway/reference.asp?No=Ref-10512.

[10] Section 1008.44, F.S., requires the SBE to annually identify CAPE industry certifications that meet specified requirements. The approved list is used to distribution of funding to school districts. Approved CAPE industry certifications are incorporated into Rule 6A-6.0573, F.A.C.

- The Commissioner of Education is required to recommend to the SBE postsecondary courses and credits completed through dual enrollment that will meet high school graduation requirements.[11] The SBE annually approves the *Dual Enrollment Course—High School Subject Area Equivalency List*[12] for both college-credit academic and non-college-credit career certificate courses.

Only college-credit-bearing courses are considered dual enrollment courses for the purposes of the school grade calculation.[13] Non-college-credit (clock hour) career certificate dual enrollment courses are not included in the school grade calculation.[14]

III. Effect of Proposed Changes:

The bill modifies the high school acceleration component of the school grading model to add to the calculation students who complete career certificate dual enrollment courses resulting in 300 or more clock hours that are identified by the SBE pursuant to law.

In the most recent *Dual Enrollment Course—High School Subject Area Equivalency List* approved by the SBE, there are a total of 961 postsecondary career certificate courses approved for dual enrollment. Of these, 287 career certificate courses are offered for at least 300 clock hours, and therefore students who take such career education courses may be included in the school grades calculation as modified in the bill.[15]

The bill may incentivize school districts to increase the enrollment of high school students in career certificate courses through dual enrollment, which may have a positive effect on a high school's grade calculation. Students may then have more opportunities to complete career education programs and industry certifications.

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[11] Section 1007.271(9), F.S.

[12] The academic courses are available at: Florida Department of Education, *2019-2020 Dual Enrollment Course-High School Subject Area Equivalency List* (approved by the SBE on May 22, 2019), *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/AcademicList1920.pdf, Career courses are available at: Florida Department of Education, *2019-2020 Dual Enrollment Course- High School Subject Area Equivalency List, Career Dual Enrollment Credit* (approved by the SBE on May 22, 2019), *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/CareerTechList1920.pdf.

[13] Florida Department of Education, *2018-19 Guide to Calculating School Grades, District Grades, and the Federal Percent of Points Index* (July 2019), *available at* http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesCalcGuide19.pdf, at 2 and 27.

[14] College credit is the type of credit assigned by a postsecondary institution to courses or course equivalent learning that is part of an organized and specified program leading to a baccalaureate, associate degree, certificate, or Applied Technology Diploma. One (1) college credit is based on the learning expected from the equivalent of fifteen (15) fifty-minute periods of classroom instruction; with credits for such activities as laboratory instruction, internships, and clinical experience determined by the institution based on the proportion of direct instruction to the laboratory exercise, internship hours, or clinical practice hours. A clock hour is the unit assigned to courses or course equivalent learning that is part of an organized and specified program leading to an Applied Technology Diploma or a Career and Technical Certificate. It applies to postsecondary adult career courses. One (1) clock hour is based on the learning expected from the equivalent of thirty (30) hours of instruction.Rule 6A-14.030(1)(a)1. and 2., F.A.C.

[15] In the career dual enrollment course list approved by the SBE, 75 clock hours is equivalent to 0.5 high school credit; 2.0 high school credits are equivalent to 300 hours. Florida Department of Education, *2019-2020 Dual Enrollment Course- High School Subject Area Equivalency List, Career Dual Enrollment Credit* (approved by the SBE on May 22, 2019), *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/CareerTechList1920.pdf.

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 impact on state revenues or expenditures. However, a high school with students who complete approved career education courses through dual enrollment may realize an increase in that high school's grade, which may increase the likelihood of the school becoming eligible for school recognition funds.[16]

VI. Technical Deficiencies:

None.

[16] The Florida School Recognition Program provides financial awards to public schools that: (1) sustain high performance by receiving a school grade of "A;" or (2) demonstrate exemplary improvement by improving at least one letter grade or by improving more than one letter grade and sustaining the improvement the following school year. Section 1008.36, F.S. The 2019-2020 school recognition program awarded $100 per student to 1,731 schools. School awards ranged from $1,679 to $465,499. Florida Department of Education, *2019-20 Florida School Recognition Program Awards by School Based on 2018-19 Performance Data, available at* http://www.fldoe.org/core/fileparse.php/7765/urlt/2019schools.xls.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1008.34 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 Education on December 9, 2019:
The committee substitute modifies the clock hour threshold from 450 hours to 300 hours for career dual enrollment courses to be included in the school grades calculation.

B. Amendments:

None.

By the Committee on Education; and Senator Montford

581-02000-20 2020434c1

A bill to be entitled

An act relating to designation of school grades; amending s. 1008.34, F.S.; revising the components on which a school's grade is based; providing an effective date.

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

Section 1. Paragraph (b) of subsection (3) of section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—

(3) DESIGNATION OF SCHOOL GRADES.—

(b)1. Beginning with the 2014-2015 school year, a school's grade shall be based on the following components, each worth 100 points:

a. The percentage of eligible students passing statewide, standardized assessments in English Language Arts under s. 1008.22(3).

b. The percentage of eligible students passing statewide, standardized assessments in mathematics under s. 1008.22(3).

c. The percentage of eligible students passing statewide, standardized assessments in science under s. 1008.22(3).

d. The percentage of eligible students passing statewide, standardized assessments in social studies under s. 1008.22(3).

e. The percentage of eligible students who make Learning Gains in English Language Arts as measured by statewide, standardized assessments administered under s. 1008.22(3).

f. The percentage of eligible students who make Learning

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Gains in mathematics as measured by statewide, standardized assessments administered under s. 1008.22(3).

g. The percentage of eligible students in the lowest 25 percent in English Language Arts, as identified by prior year performance on statewide, standardized assessments, who make Learning Gains as measured by statewide, standardized English Language Arts assessments administered under s. 1008.22(3).

h. The percentage of eligible students in the lowest 25 percent in mathematics, as identified by prior year performance on statewide, standardized assessments, who make Learning Gains as measured by statewide, standardized Mathematics assessments administered under s. 1008.22(3).

i. For schools comprised of middle grades 6 through 8 or grades 7 and 8, the percentage of eligible students passing high school level statewide, standardized end-of-course assessments or attaining national industry certifications identified in the CAPE Industry Certification Funding List pursuant to rules adopted by the State Board of Education.

In calculating Learning Gains for the components listed in sub-subparagraphs e.-h., the State Board of Education shall require that learning growth toward achievement levels 3, 4, and 5 is demonstrated by students who scored below each of those levels in the prior year. In calculating the components in sub-subparagraphs a.-d., the state board shall include the performance of English language learners only if they have been enrolled in a school in the United States for more than 2 years.

2. For a school comprised of grades 9, 10, 11, and 12, or grades 10, 11, and 12, the school's grade shall also be based on

the following components, each worth 100 points:

a. The 4-year high school graduation rate of the school as defined by state board rule.

b. The percentage of students who were eligible to earn college and career credit through College Board Advanced Placement examinations, International Baccalaureate examinations, dual enrollment courses, <u>including career dual enrollment courses resulting in 300 hours or more of clock hours which are identified by the state board as meeting the requirements of s. 1007.271,</u> or Advanced International Certificate of Education examinations; or who, at any time during high school, earned national industry certification identified in the CAPE Industry Certification Funding List, pursuant to rules adopted by the state board.

Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environment and Natural Resources, *Chair*
Education, *Vice Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Education
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR BILL MONTFORD
Minority Leader Pro Tempore
3rd District

January 24, 2020

Senator Rob Bradley, Chair
Senate Committee on Appropriations
414 Senate Office Building
Tallahassee, Florida 32399-1100

Dear Chair Bradley,

I respectfully request that the following bills be placed on the next Appropriations Committee Agenda.

SB 434 – A bill relating to Designation of School Grades.

Your consideration is greatly appreciated.

Sincerely,

William J. Montford III

WJM:rm

REPLY TO:
❒ 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
❒ 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

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)

2-20-2020
Meeting Date

434
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Designation of School Grades

Name Debbie Mortham

Job Title Legislative Director

Address 215 S. Monroe St.
Street

Phone

Tallahassee FL 32311
City *State* *Zip*

Email debbie@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)

2/20/2020
Meeting Date

434
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Designation of School Grades

Name Matthew Choy

Job Title Policy Director

Address 136 S Bronough St
Street

Tallahassee FL 32311
City *State* *Zip*

Phone 561-386-3451

Email mchoy@flchamber.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida 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/CS/SB 474
INTRODUCER:	Appropriations Committee; Commerce and Tourism Committee; Innovation, Industry, and Technology Committee; and Senators Albritton and Gruters
SUBJECT:	Deregulation of Professions and Occupations
DATE:	February 24, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	IT	**Fav/CS**
2.	McMillan	McKay	CM	**Fav/CS**
3.	Davis	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 474 relates to businesses and professions regulated by the Department of Business and Professional Regulation (DBPR) and health professionals regulated by the Department of Health (DOH). The bill:

- Repeals the authority of the DOH and the DBPR to suspend or revoke a professional license because of a default on a student loan or failure to comply with service or work-conditional scholarship obligations;
- Waives the requirement to pass the commercial driver skills test for a military service member or veteran with specified training;
- Provides an exemption from the requirement to be licensed as a dietitian or nutritionist for persons who provide information and do not represent themselves as a dietitian or nutritionist or as a licensed or registered dietitian or nutritionist;
- Preempts the regulation of mobile food dispensing vehicles (food trucks) to the state, prohibits local government from requiring a license, registration, or permit, and prohibits local governments from prohibiting the operation of food trucks in the entirety of their jurisdiction; and
- Revises the membership of the Florida Building Commission.

The bill repeals registration requirements for labor organizations and their business agents, and license or registration requirements for the following professions regulated by the DBPR:

- Hair braiders, hair wrappers, and body wrappers; and

- Boxing announcers and timekeepers.

The bill also repeals the licensing requirements for talent agents. The bill maintains the requirement for a talent agent to obtain a bond, requires a talent agent to submit fingerprints to the FDLE for a criminal background check, and prohibits the bonding agency from issuing or renewing a bond to a talent agent who is registered as a sexual offender.

The regulation of interior design is revised by the bill to provide for a voluntary certificate of registration to practice interior design in place of the current license requirement. A certificate of registration is not required to practice interior design. To qualify for registration, an interior designer must have satisfactorily passed a qualification examination. Only a registered interior designer may use a seal issued by the DBPR when submitting documents for the issuance of a building permit. The bill imposes a nonrefundable biennial fee of no more than $75 for a certificate of registration for interior designers.

The bill deletes the requirement that a yacht and ship broker must have a separate license for each branch office. The bill eliminates the additional business or firm license required for the following professional licensees:

- Auctioneers;
- Architects and interior designers;
- Landscape architects; and
- Geologists.

The bill provides additional options for the following professionals, if licensed in another state, to qualify for a professional license in Florida:

- Building code administrators and inspectors;
- Home inspectors;
- Engineers;
- Certified public accountants;
- Veterinarians;
- Barbers;
- Cosmetologists;
- Construction and electrical and alarm contractors;
- Landscape architects;
- Geologists.

For barbers, effective January 1, 2021, the bill reduces the minimum number of hours of training required for licensure from 1,200 hours to 900 hours. For cosmetologists, the bill reduces the number of hours of continuing education required for the biennial renewal of a cosmetology license from 16 hours to 10 hours. Effective January 1, 2021, the bill also reduces the number of training hours required to be registered as a nail, facial, or full specialist.

The bill has a significant negative fiscal impact on state revenues. According to the DBPR, the elimination of licensing requirements under the bill is estimated to reduce state revenues by $2,868,528 over the next three fiscal years. See Section V.

Except as otherwise expressly provided in the act, the bill takes effect on July 1, 2020.

II. Present Situation:

For ease of reference, the Present Situation for each section of CS/CS/SB 474 is addressed in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (the DBPR) is provided below.

Organization of the Department of Business and Professional Regulation

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has 12 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Pari-mutuel Wagering;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.[1] The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.[2]

Powers and Duties of the DBPR

Chapter 455, F.S., applies to the regulation of professions constituting "any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation,"[3] as well as the procedural and administrative framework for those divisions and all of the professional boards within the DBPR.[4]

The DBPR's regulation of professions is to be undertaken "only for the preservation of the health, safety, and welfare of the public under the police powers of the state,"[5] and regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;

[1] Section 548.003(1), F.S.
[2] *See* Parts I and III of ch. 450, F.S.
[3] *See* s. 455.01(6), F.S.
[4] *See* s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel at the DBPR. *See* s. 455.221(1), F.S.
[5] Section 455.201(2), F.S.

- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.[6]

However, "neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention," or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.[7]

DBPR Boards

Fifteen boards and programs exist within the Division of Professions,[8] two boards are within the Division of Real Estate, and one board exists in the Division of Certified Public Accounting.

Permitting, Registration, Licensing, and Certification

Sections 455.203 and 455.213, F.S., establish general licensing authority for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.[9]

When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a "license," which may be referred to as either a permit, registration, certificate, or license.[10] Those who are granted licenses are referred to as licensees.[11]

In Fiscal Year 2018-2019, the Division of Accountancy had 39,591 active licensees, the Real Estate Commission had 293,012 active licensees, and the Board of Professional Engineers had 65,196 licensees.[12] In Fiscal Year 2018-2019, there were 439,821 active licensees in professions regulated by the Division of Professions,[13] including:

- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;

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[6] *Id.*
[7] Section 455.201(4)(b), F.S.
[8] Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481; Florida Board of Auctioneers, part VI of ch. 468; Barbers' Board, ch. 476; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468; Construction Industry Licensing Board, part I of ch. 489; Board of Cosmetology, ch. 477; Electrical Contractors' Licensing Board, part II of ch. 489; Board of Employee Leasing Companies, part XI of ch. 468; Board of Landscape Architecture, part II of ch. 481; Board of Pilot Commissioners, ch. 310; Board of Professional Engineers, ch. 471; Board of Professional Geologists, ch. 492; Board of Veterinary Medicine, ch. 474; Home Inspection Services Licensing Program, part XV of ch. 468; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.
[9] Section 455.219(1), F.S.
[10] Section 455.01(4), F.S.
[11] Section 455.01(5), F.S.
[12] Florida Department of Business and Professional Regulation, *Fiscal Year 2018-2019 Annual Report*, page 19, *available at:* http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf (last visited Feb. 4, 2020).
[13] Of the total 460,857 licensees in the Division of Professions, 21,036 were inactive. *See supra* note 12.

- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Geologists;
- Home inspectors;
- Harbor pilots;
- Landscape architects;
- Mold-related services;
- Talent agencies; and
- Veterinarians.

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) within the DBPR provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure. The FCTMH has limited regulatory authority over the following business entities and individuals:

- Condominium associations under ch. 718, F.S.;
- Cooperative associations under ch. 719, F.S.;
- Florida mobile home parks and related associations under ch. 723, F.S.;
- Vacation units and timeshares under ch. 721, F.S.;
- Yacht and ship brokers and related business entities under ch. 326, F.S.; and
- Homeowner's associations under ch. 720, F.S. (jurisdiction is limited to arbitration of election and recall disputes).[14]

III. Effect of Proposed Changes:

For ease of reference to each of the subjects addressed in CS/CS/SB 474, the Present Situation for each topic will be described, followed immediately by an associated section detailing the Effect of Proposed Changes.

Commercial Driver's License

Present Situation

Section 322.57, F.S., requires a person who drives any of the following types of vehicles to obtain an endorsement on his or her driver's license acknowledging successful completion of a skills test concerning the safe operation of such vehicle:

- A double or triple trailer;
- A passenger vehicle;
- A school bus;
- A tank vehicle;

[14] Section 720.306(9)(c), F.S.

- A vehicle that transports hazardous materials and that is required to be placarded in accordance with 49 C.F.R. part 172, subpart F;
- A tank vehicle transporting hazardous materials; and
- A motorcycle.

Effect of Proposed Changes

Section 2 of the bill amends s. 322.57(4), F.S., to waive the requirement to pass the commercial driver skills test for a military service member or veteran with specified training, including having at least two years of experience in military service driving vehicles that would otherwise require a commercial driver license to operate. To qualify for the waiver, the person must be honorably discharged from military service within one year of the application for the waiver. The person must complete every other requirement for a commercial driver's license within one year of receiving a waiver.

Yacht and Ship Broker Branch Office Licenses

Present Situation

Chapter 326, F.S., governs the licensing and regulation of yacht and shipbrokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker's Section, a unit of the Division of Florida Condominiums, Timeshares and Mobile Homes of the DBPR, processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.[15]

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.[16] Each yacht or ship broker must maintain a principal place of business in Florida and may establish branch offices in Florida. A separate license must be maintained for each branch office.[17] Applicants for a branch office license pay a $100 fee, and the license must be renewed every two years.[18]

Effect of Proposed Changes

Section 3 of the bill amends s. 326.004(13), F.S., to delete the requirement for a separate license for each branch office maintained by a yacht and ship broker. The current law provisions related to licensing for yacht brokers and salespeople are retained.

Labor Organizations

Present Situation

Chapter 447, F.S., governs the licensing and regulation of labor organizations, and related business agents in the state. The Division of Regulation within the DBPR oversees the licensing and regulation of labor organizations. The Division of Regulation processes license applications

[15] *See* ch. 326, F.S., and, Department of Business and Professional Regulation, *Yacht and Ship, available at:* http://www.myfloridalicense.com/DBPR/yacht-and-ships/ (last visited Feb. 4, 2020).
[16] Section 326.004(1), F.S.
[17] Section 326.004(13), F.S.
[18] *See* Fla. Admin. Code R. 61B-60.002 (2019).

and regulates the activities of labor unions and their officers, agents, organizers, and representatives.[19]

A labor organization is defined as "any organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state."[20]

In Florida, all labor organizations are required to register with the DBPR and all business agents of labor organizations must obtain a license.[21] Business agents are defined as "any person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

- The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; and
- Soliciting or receiving from any employer any right or privilege for employees."[22]

Applicants for a business agent license must pay a $25 license fee and must meet a number of licensure requirements.[23] Labor organization applicants must pay an annual fee of $1.[24]

Effect of Proposed Changes

Sections 4 through 12 of the bill amend ch. 447, F.S., to eliminate the registration and regulation of labor organizations and their business agents by the DBPR and the requirement that the Public Employees Relations Commission notify the DBPR of registrations and renewals of such organizations. Provisions relating to the right to work and strike, recordkeeping, rights of franchise for labor organizations, civil causes of action, criminal penalties, and recognition of federal regulations are not affected by the bill.

Reciprocal Licensing by the DBPR

Present Situation

Section 455.213, F.S., provides general licensing provisions for the DBPR. Some professions licensed by the DBPR authorize the DBPR or the applicable board to issue a license by endorsement (reciprocity) to a person licensed in another state, if the other state's license qualification requirements are equal to or greater than, the profession's license qualification requirements in Florida.[25]

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[19] Section 447.01, F.S., and *See* The Department of Business and Professional Regulation, *Labor Organizations and Business Agent, available at:* http://www.myfloridalicense.com/DBPR/labor-organizations-and-business-agents/ (last visited Feb. 4, 2020).
[20] Section 447.02(1), F.S.
[21] Sections 447.04(2) and 447.06, F.S.
[22] Section 447.02(2), F.S.
[23] Section 447.04(2), F.S.
[24] Section 447.06(2), F.S.
[25] *See*, for example, s. 477.019(6), F.S., relating to licensure by endorsement for a person licensed as a cosmetologist in another state.

Effect of Proposed Changes

Section 13 of the bill amends s. 455.213, F.S., to require the department or board to enter into reciprocal licensing agreements with other states when permitted by the practice act for a profession. The bill requires the department to post on its website existing reciprocity agreements with other states or to identify the states whose licensing requirements are substantially equivalent or more stringent than the requirements in Florida.

Licensing and Student Loan Obligations

Present Situation

Healthcare Practitioner Licensing

The Division of Medical Quality Assurance (MQA) within the Florida Department of Health (DOH) is responsible for the licensing and regulation of healthcare practitioners in the state. The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 200 license types in over 40 health care professions. Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA. The MQA regulates the following professions:

- Acupuncturists;
- Athletic Trainers;
- Chiropractors;
- Clinical Laboratory Personnel;
- Clinical Social Workers, Marriage and Family Counselors, and Mental Health Counselors;
- Dentists;
- Hearing Aid Specialists;
- Massage Therapists;
- Medical Doctors;
- Nurses;
- Nursing Home Administrators;
- Occupational Therapists;
- Opticians;
- Optometrists;
- Orthotists and Prosthetists;
- Osteopathic Doctors;
- Pharmacists;
- Physical Therapists;
- Podiatrists;
- Psychologists;
- Respiratory Care Practitioners;
- Speech-Language Pathologists and Audiologists;
- Dietetics and Nutrition Practitioners;
- Electrologists;
- Licensed Midwifes;
- Physician Assistants;
- Certified Master Social Workers;

- Emergency Medical Technicians;
- Medical Physicists;
- Paramedics;
- Radiologic Technicians; and
- School Psychologists.

Healthcare Practitioner Discipline

Section 456.072(1)(k), F.S., provides that the DOH may discipline a healthcare practitioner for failing to perform any statutory or legal obligation placed upon a healthcare practitioner, which specifically includes failing to repay a government-backed student loan or comply with a service scholarship obligation. If the DOH finds that a healthcare practitioner has defaulted on his or her student loans or failed to comply with a service scholarship, at a minimum, the DOH must:

- Suspend the practitioner's license until he or she agrees to new loan repayment terms or resumes the scholarship obligation;
- Place the practitioner on probation for the duration of the student loan or scholarship obligation period; and
- Impose a fine equal to 10 percent of the defaulted loan amount.

Each month, the DOH must obtain information from the United States Department of Health and Human Services (USDHHS) necessary to determine the Florida healthcare practitioners that have defaulted on government-backed student loans.[26] Upon learning that a healthcare practitioner has defaulted on such a student loan, the DOH must notify the practitioner that he or she has 45 days to provide the DOH with proof of a new repayment plan, or such practitioner will be subject to an emergency order suspending the practitioner's license.[27] The DOH may proceed with additional disciplinary action against the practitioner, regardless if he or she provides proof of entering a new repayment plan.[28]

In the 2017-2018 fiscal year, the DOH reported 850 student loan defaults, 76 completed investigations, and 26 emergency suspension orders filed.[29] In the 2018-2019 fiscal year, the DOH reported 87 student loan defaults, 250 completed investigations, 121 emergency suspension orders filed, and further disciplinary action taken on 29 licensees.[30] In 2018-2019, the most affected licensed professions were Certified Nursing Assistant (43 suspension orders) and Registered Nurse (18 suspension orders).[31]

Licensure in Other State Agencies

Other agencies provide professional and occupational licensing and certification, such as the:

[26] Section 456.0721, F.S.
[27] *See* s. 456.074, F.S.
[28] *Id.*
[29] Florida Department of Health, *Annual Report and Long-range Plan Fiscal Year 2017-2018, Table 14: Student Loan Defaults*, at 44, *available at:* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1718.pdf (last visited Feb. 4, 2019).
[30] Florida Department of Health, *Annual Report and Long-range Plan Fiscal Year 2018-2019, Table 14: Student Loan Defaults*, at 43, *available at:* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1819.pdf (last visited Feb. 4, 2019).
[31] *Id.*

- Department of Agriculture and Consumer Services;[32]
- Department of Business and Professional Regulation;[33]
- Department of Education;[34]
- Department of Environmental Protection;[35]
- Department of Financial Services;[36] and
- Department of Highway Safety and Motor Vehicles.[37]

Each agency or affiliated board or commission is authorized to take action against a license or certificate based on violations of law or professional practice. However, no state law specifically authorizes such agencies to take disciplinary action against a license resulting from default on a student loan.

Effect of Proposed Changes

Section 14 of the bill creates s. 455.2278, F.S., to prohibit the DBPR or any board under DBPR from disciplining a licensee solely for defaulting or becoming delinquent on a federal or state guaranteed student loan or a work-conditional scholarship obligation.

Sections 15 through 17 of the bill repeal the authority of the DOH requirements to suspend or revoke a professional license because of a default on a student loan or failure to comply with service scholarship obligations. Specifically, the bill:

- Amends s. 456.072, F.S., to remove a licensee's failure to repay a federal- or state-guaranteed student loan or failure to comply with service scholarship obligations from the list of violations for which the DOH may take disciplinary action;
- Amends s. 456.074, F.S., to remove the requirement that the DOH notify a health care practitioner in default on a student loan that he or she is subject to suspension of a license unless the practitioner provides proof of repayment terms within 45 days of the notification; and

[32] The Florida Department of Agriculture and Consumer Services licenses professions such as dealers in agricultural products, pest control operators, professional surveyors and mappers, recovery agents, private investigators and private security, and liquefied propane dealers or installers.
[33] The Florida Department of Business and Professional Regulation is charged with licensing and regulating businesses and professionals such as cosmetologists, veterinarians, real estate agents, and pari-mutuel wagering facilities. Florida Department of Business and Professional Regulation, *Department Overview*, http://www.myfloridalicense.com/DBPR/about-us/department-overview/ (last visited Feb. 19, 2020).
[34] Florida educators must be certified to teach in public schools. Educators include classroom teachers, school administrators, and other support professionals, such as guidance counselors and media specialists. Florida Department of Education, *Educator Certification*, http://www.fldoe.org/teaching/certification/ (last visited Feb. 19, 2020).
[35] The Florida Department of Environmental Protection is responsible for a professional licensure program for water and wastewater treatment plant operators along with water distribution system operators. Florida Department of Environmental Protection, *Certification and Restoration Program*, https://floridadep.gov/water/certification-restoration (last visited Feb. 19, 2020).
[36] The Florida Department of Financial Services licenses professions related to fire safety, funeral and cemetery services, and insurance. Florida Department of Financial Services, *Business and Professional*, https://www.myfloridacfo.com/sitePages/services/display.aspx?a=Business%20and%20Professional (last visited Feb. 19, 2020).
[37] The Florida Department of Highway Safety and Motor Vehicles licenses motor vehicle dealers, mobile home dealers, and recreational vehicle dealers. Florida Department of Highway Safety and Motor Vehicles, *Florida Motor Vehicle, Mobile Home, and Recreational Vehicle Dealers' Handbook* (2015), *available at* https://www.flhsmv.gov/pdf/dealerservices/dealerhandbook.pdf (last visited Feb. 19, 2020).

- Repeals s. 456.0721, F.S., to remove the requirement that the DOH obtain monthly reports from the USSHHS regarding health care practitioners who have failed to repay a student loan or comply with scholarship service obligations.

Auctioneers

Present Situation

Auction businesses, auctioneers, and apprentice auctioneers are licensed and regulated in accordance with part VI of ch. 468, F.S., and by the Florida Board of Auctioneers within the DBPR. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the auctioneering industry.

An 'auction business' is a "sole proprietorship, partnership, or corporation which in the regular course of business arranges, manages, sponsors, advertises, promotes, or carries out auctions, employs auctioneers to conduct auctions in its facilities, or uses or allows the use of its facilities for auctions."[38]

A license is required before any person can auction or offer to auction any property in this state, and the auctioneer practice act applies to all auctions in the state with certain exceptions.[39]

In order to qualify for licensure as an auctioneer, an applicant must:
- Be 18 years or older;
- Have not committed any act or offense in the state or any other jurisdiction which would constitute a basis for disciplinary action in Florida;
- Have held an apprentice license and has served as an apprentice for one year or more, or have completed a course of study, consisting of not less than 80 classroom hours of instruction, that meets standards adopted by the board; and
- Pass the required examination.[40]

The Florida Board of Auctioneers assesses a variety of fees for licensure as an auctioneer, including application fees, examination fees, initial license fees, and renewal fees. For example, the application fee for an auctioneer license through examination is $50, the examination fee is $250 payable to the DBPR plus $10 payable to the testing service, and the initial license fee for an auctioneer is $150.[41]

An auctioneer may be disciplined or have a civil action brought against them by the DBPR for one of the following violations:[42]
- Violating any trade or commerce law;
- Misrepresenting property for sale at auction;
- Failing to return money or property within 30 days of obtaining control of such money or property;

[38] Section 468.382(1), F.S.
[39] Sections 468.385(2) and 468.383, F.S.
[40] Sections 468.385(6), F.S.
[41] *See* Fla. Admin. Code R. 61G2-3.001 (2019).
[42] Section 468.389, F.S.

- False, deceptive, misleading, or untruthful advertising;
- Bad faith or dishonesty in a sales transaction;
- Using false bidders, cappers, or shills;
- Comingling auction monies with personal money;
- Refusing or neglecting to pay public moneys into the State Treasury when prescribed by law; and
- Other violations of the practice act.

An auctioneer commits a third degree felony for certain violations of the practice act, including:[43]

- Failing to return money or property within 30 days of control of such money or property;
- Bad faith or dishonesty in a sales transaction;
- Using false bidders, cappers, or shills;
- Comingling auction monies with personal money; and
- Refusing or neglecting to pay the public moneys into the State Treasury when prescribed by law.

There is no continuing education requirement for auctioneers or auctioneer apprentices.

There were 2,600 active licensed auctioneers and 24 disciplinary orders issued in the 2018-2019 fiscal year.[44]

Effect of Proposed Changes

Section 18 of the bill amends s. 468.385, F.S., to remove the requirement that an auction business must be licensed. Instead, it requires an auction business to be owned by an auctioneer who is licensed by the DBPR.

Section 97 of the bill amends s. 559.25(3), F.S., to delete the exemption for licensed auctioneers from compliance with requirements relating to fire and going-out-of-business sales and auctions.[45]

Talent Agents and Agencies

Present Situation

Chapter 468, Part VII, F.S., establishes regulations and licensure requirements for talent agencies. Talent agencies are licensed by the Division of Regulation within the DBPR. Talent agents represent and promote talent and performers to prospective employers. They may also handle contract negotiations and other business matters for clients.[46] There were 418 licensed talent agencies and no disciplinary orders issued to talent agencies in the 2018- 2019 fiscal year.[47]

[43] Section 468.391, F.S.
[44] *Supra* note 12 at pp. 19 and 90.
[45] See s. 559.21, F.S., relating to the regulation of sales.
[46] Section 468.401, F.S.
[47] *Supra* note 12.

Sections 468.403 and 468.405, F.S., provide licensure requirements, including proof of at least one year of direct experience in the talent agency business or specific related careers. A license application must be accompanied by affidavits of at least five reputable persons, other than artists, who have known or have been associated with the applicant for at least three years, stating that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing. Each application must also specify whether the agency, any person, or any owner of the agency is financially interested in any other business of a similar nature.

Talent agencies must pay an initial licensure application fee of $300 and an initial license fee of $400. Additionally, each talent agency must post a $5,000 bond.[48] Licenses are renewed biennially.

Part VII of ch. 468, F.S., also includes requirements for recordkeeping,[49] prohibitions on registration fees,[50] and contractual requirements.[51] Certain prohibited acts are crimes punishable as a second-degree misdemeanor or a third-degree felony and by revocation of the talent agency's license.[52] Additionally, owning or operating a talent agency without a license, or obtaining such license by means of fraud, misrepresentation or concealment constitutes a felony of the third degree.[53] Section 468.13(4), F.S., provides that a state attorney may seek appropriate relief for violations of s. 468.413(1), F.S.

Section 468.415, F.S., prohibits sexual misconduct by a talent agent and authorizes the DBPR to permanently revoke the license of any agent, owner, or operator of a talent agency who violates this prohibition. Such person is also permanently disqualified from licensure as an agent, owner, or operator of a talent agency.

Effect of Proposed Changes

Sections 19 through 32 of the bill amend part VII of ch. 468, F.S., to repeal the license requirements for talent agencies. The bill retains several requirements for the conduct of talent agencies including the requirement to maintain a surety bond and requirements for the conduct of the profession, including record keeping requirements, prohibited acts, and criminal penalties for prohibitions that are unrelated to license requirements.

The bill retains the requirement in s. 468.408(1), F.S., for a talent agency to obtain a $5,000 bond. The bill requires that a bond to a talent agent may not be issued or renewed by a bonding agency unless each owner or operator of the talent agency submits fingerprints to the Florida Department of Law Enforcement (FDLE) for a criminal background check. A bonding agency may not issue or renew a bond to a talent agent who is registered as a sexual offender. There is no penalty in the bill or in current law (other than discipline associated with the license, such as a

[48] Section 468.408, F.S.
[49] Section 468.409, F.S.
[50] Section 468.410, F.S.
[51] *See, e.g.*, sections 468.410(3), and 468.413(2)(f), F.S.
[52] Section 468.413, F.S. A third-degree felony is punishable by up to five years imprisonment and a $5,000 fine. Sections 775.082(3)(e) and 775.083(1)(c), F.S.; A second-degree misdemeanor is punishable by no more than 60 days imprisonment and a $500 fine. Sections 775.082(4)(b) and 775.083(1)(e), F.S.
[53] Section 468.413(1), F.S.

fine or suspension or revocation of the license) for failure by a talent agent to maintain the bond required by law.

The bill amends. 468.413(2), F.S., to repeal the authority of the DBPR to seek relief in court for any violation by a talent agency or other person violating the provision of part VII of ch. 468, F.S. However, the bill retains the authority of any state attorney to seek appropriate relief in court. The bill also repeals the authority of the DBPR to issue a fine not to exceed $5,000 for violations of a prohibited act.

The bill does not repeal the prohibition in s. 468.415, F.S., against sexual misconduct. Under the bill, violators are permanently prohibited from acting as an agent, owner, or operator of a Florida talent agency. However, the bill does not provide a remedy or other penalty if such person acts as an agent, owner, or operator of a Florida talent agency after being permanently barred from doing so. The criminal penalties in s. 468.413, F.S., for violations involving certain prohibited acts do not apply to the sexual misconduct prohibition in s. 468.415, F.S.

Dietetics and Nutrition

Present Situation

Dieticians and nutritionists are regulated by part X ch. 468, F.S., and by the Council of Dietetics and Nutrition (council), which is under the delegated authority of the Board of Medicine at the DOH.[54]

The practice of dietetics and nutrition includes:[55]

- Assessing nutritional needs and status using appropriate data;
- Recommending appropriate dietary regimens, nutrition support, and nutrient intake;
- Ordering therapeutic diets;
- Improving health status through nutrition, research, counseling, and education; and
- Developing, implementing, and managing nutrition care systems, including evaluating, monitoring, and maintaining appropriate standards of high quality food and nutrition services.

Nutrition counseling includes advising and assessing individuals or groups on appropriate nutritional intake by integrating information from a nutrition assessment.[56] A nutrition assessment is an evaluation of nutritional needs using appropriate data to determine nutrient needs or status and making appropriate nutrition recommendations.[57]

[54] Section 468.506, F.S.
[55] Section 468.503(5), F.S.
[56] Section 468.503(10), F.S.
[57] Section 468.503(9), F.S.

An individual must be licensed to practice dietetics and nutrition or provide nutrition counseling for remuneration, or to hold oneself out as a practitioner of dietetics and nutrition practice or nutrition counseling.[58] To qualify for licensure, an applicant must:[59]

- Possess a baccalaureate or post-baccalaureate degree in human nutrition, food and nutrition, dietetics, or food management, or an equivalent course of study, from an accredited school or program;
- Have experience of at least 900 hours or has education or experience determined to be equivalent by the Board of Medicine; and
- Pass a licensure examination.

There are a number of exceptions to these licensure requirements. Licensing is not required for a person:[60]

- Licensed in this state as a certain health practitioner, as long as such person is engaging in the practice of the profession for which he or she is licensed.
- Employed by the federal government, if such person engages in dietetics solely under the direction or control of the organization by which the person is employed.
- Employed as a cooperative extension home economist.
- Pursuing a course of study leading to a degree in dietetics and nutrition from an accredited school, if the activities and services are a part of a supervised course of study and the person's title clearly indicates that he or she is a student or trainee.
- Fulfilling the pre-licensure experience requirement.
- Registered or licensed in another state practicing dietetics or nutrition incidental to a course of study when taking or giving a postgraduate course or other course of study in this state, if the person holds an appointment on the faculty of an accredited school.
- Marketing or distributing food, food materials, or dietary supplements, or engaging in the explanation of the use and benefits of those products or the preparation of those products, if the person does not engage for a fee in dietetics and nutrition practice or nutrition counseling.
- Marketing or distributing food, food materials, or dietary supplements, or engaging in the explanation of the use or preparation of such products, as an employee of a permitted pharmacy.
- Employed as an educator by a nonprofit organization approved by the council, a governmental entity, an elementary or secondary school, an accredited institution of higher education, if his or her activities are part of such employment.
- Providing weight control services or related weight control products, provided that the program has been reviewed by, consultation is available from, and no program change can be made without approval by a licensed dietitian/nutritionist.
- Employed by a licensed hospital, nursing home, continuing care facility, or assisted living facility, if the person is employed in compliance with governing facility licensure laws and rules regarding the operation of its dietetic department.
- Employed by a nursing facility exempt from licensure.
- Exempt from licensure under ch. 464, F.S., relating to the practice of nursing.

[58] Section 468.504, F.S.
[59] Pursuant to s. 468.509, F.S., a person may be licensed without examination if the person demonstrates that he or she is a registered dietician or nutritionist with the Commission on Dietetic Registration or is a certified as nutrition specialist by the Certification Board of Nutrition Specialist or is a diplomat of the American Clinical Board of Nutrition.
[60] Section 468.505, F.S.

- Employed as a dietetic technician.
- Disseminating information, conducting a class or seminar, or giving a speech related to nutrition, if such information, class, seminar or speech is provided without a fee.

Individuals who provide dietary or nutrition information for compensation as a part of a profession that is not regulated, such as a fitness trainer or a life coach, are subject to prosecution for the unlicensed practice of a regulated health profession.[61]

Applicants for a dietetics and nutrition license must pay an initial examination fee of $200, an application fee of $80, an initial license fee of $80, and an unlicensed activity fee of $5.[62] The biennial renewal fee is $75.[63]

Currently, seven states do not register or license dietitians: Arizona, California, Colorado, Michigan, New Jersey, Texas, and Virginia.[64] California, Texas, and Virginia provide title protection for dietitians.[65]

In the 2018-2019 fiscal year, there were 5,413 licensed dieticians and nutritionists. The DOH received eight complaints against dieticians and nutritionists, but no complaints were found legally sufficient by the Board of Medicine to take disciplinary action.[66]

Effect of Proposed Changes

Section 33 amends s. 468.505, F.S., to authorize an unlicensed person to provide dietary and nutritional information for remuneration if the person does not represent or imply they are a dietician, licensed dietitian, registered dietitian, licensed nutritionist, licensed nutrition counselor, or use any other term or symbol that implies the they are a dietitian, nutritionist, or nutrition counselor.

Employee Leasing Companies

Present Situation

Employee leasing is an arrangement where a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client, with exceptions.[67] This is commonly referred to as a "temporary employment arrangement" or "temp job."[68] The Board of Employee Leasing Companies under

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[61] *See* 456.065, F.S. The unlicensed practice of a regulated health care profession may be subject a person to administrative and criminal sanctions.
[62] *See* Fla. Admin. R. 64B8-41.001 and Florida Department of Health, *Licensing*, http://www.floridahealth.gov/licensing-and-regulation/dietetic-nutrition/licensing/index.html (last visited Feb. 19, 2020).
[63] *Id.*
[64] Commission on Dietetic Registration, Academy of Nutrition and Dietetics, *Laws the Regulate Dietitians/Nutritionists*, available at https://www.cdrnet.org/vault/2459/web/files/Licensurelawsregulations.pdf (last visited Feb. 19, 2020).
[65] *Id*.
[66] Florida Department of Health, *supra* note 30 at 14, 29.
[67] Section 468.520(4), F.S.
[68] Michael Altiero, *PEO and Employee Leasing-What's the Difference?* (Jan. 8, 2018), https://www.extensisgroup.com/blog/peo-and-employee-leasing-whats-the-difference (last visited Feb. 21, 2020).

the DBPR licenses and regulates employee leasing companies.[69] There were 973 licensed employee leasing companies and 104 disciplinary orders issued to employee leasing companies in the 2018-2019 fiscal year.[70]

Section 468.524(4), F.S., requires a one-year waiting period for re-application after an applicant for licensure as an employee leasing company is denied a license, or a licensee's license is revoked. This mandatory delay does not apply to administrative denials or revocations if:

- The applicant or licensee has made an inadvertent error or omission on the application;
- The experience documented to the Board of Employee Leasing Companies was insufficient at the time of the previous application; or
- The DBPR is unable to complete the criminal background investigation because of insufficient information from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency.

Effect of Proposed Changes

Section 34 of the bill amends s. 468.524(4), F.S., to delete the one-year mandatory delay for re-application for applicants who were denied an employee leasing company license, but retains the delay for licensees who had their license revoked.

The bill deletes the exemptions to the one-year restriction for re-application for a license if the DBPR was unable to complete a criminal background investigation or the applicant was found ineligible for lack of good moral character. Under the bill, such persons would remain ineligible for licensure under part XI of ch. 468, F.S., for one year after revocation of a license.

Building Code Administrators and Inspectors

Present Situation

Building officials, inspectors, and plans examiners are regulated by part XII of ch. 468, F.S., and are regulated and licensed by the Florida Building Code Administrators and Inspectors Board (FBCAIB).[71]

A building code administrator, otherwise known as a building official, supervises building code activities, including plans review, enforcement, and inspection.[72]

A building code inspector inspects construction that requires permits to determine compliance with building codes and state accessibility laws. An inspector's ability to practice is limited to the category or categories in which the inspector has been certified. The inspector categories are:

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;
- Residential electrical inspector;

[69] Section 468.522, F.S.
[70] *Supra* note 12 at 19 and 90.
[71] Section 468.605, F.S.
[72] Section 468.603(1), F.S.

- Mechanical inspector;
- Plumbing inspector;
- One and two family dwelling inspector; and
- Electrical inspector.[73]

A one and two family dwelling inspector may only inspect one and two family dwelling and accessory structures.

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes.[74] A plans examiner's ability to practice is limited to the category or categories the plans examiner is certified in. The plans examiner categories are:
- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and
- Electrical plans examiner.[75]

In order to become licensed, building code administrators, inspectors, and plans examiners must take the licensing exam required for the category sought.

In order to sit for the administrator exam, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:[76]
- Have 10 years of combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least five years of such experience in supervisory positions; or
- Have a combination of no more than five years of postsecondary education in the field of construction or related field and at least five years of experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent; and
- Have completed training on ethics and Florida laws relating to administrators.

In order to sit for the plans examiner or inspector exam, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:[77]
- Have four to five years combined relevant education and experience, depending on how the applicant chooses to qualify;
- Complete an approved cross-training program and have at least two years of experience;
- Hold a standard certificate issued by the FBCAIB or a firesafety inspector license, and
  - Have at least five years of relevant experience as an inspector or plans examiner;
  - Have a minimum of three years of experience in inspection or plan review, and completed an inspector or plans examiner training program in the new category sought;
  - Have a minimum of five years of experience in firesafety inspection, and completed a training program of not less than 200 hours in the new category sought; or

[73] Section 468.603(6), F.S.
[74] Section 468.603(7), F.S.
[75] *Id.*
[76] Section 468.609(3), F.S.
[77] Section 468.609(2), F.S.

- Complete an approved training program of not less than 300 hours in inspection or plans review; and a minimum of two years of experience in construction, inspection, plans review, fire code inspections and fire plans review of new buildings as a firesafety inspector; or
- Complete a four-year internship certification program.

A person who is licensed in another state is eligible for a building code administrator, inspector, or plans examiner license by endorsement in Florida if they:[78]

- Meet experience, educational, or training program requirements;
- Complete the Florida principle and practice exam; and
- Complete the relevant International Codes Council (ICC) exams for the category sought.

There were 9,056 active licensed building code administrators and inspectors and six disciplinary orders issued in the 2018-2019 fiscal year.[79]

Effect of Proposed Changes

Section 35 of the bill amends s. 468.603(5)(f), F.S., to rename the license category of "one and two family dwelling inspector" with the term "residential inspector." The term is also redefined to include inspections of one-family, two-family, or three-family residences not exceeding two habitable stories or more than one uninhabitable story and accessory use structure in connection to the residence.

Section 36 amends s. 568.609(2), F.S., to reduce the number of years of experience and education required for certain pathways to become a building code inspector or plans examiner. The requirements are reduced to:

- Four years from five years for combined relevant experience;
- Three years from four years for combined post-secondary education and relevant experience; and
- Three years from four years for combined technical education and relevant experience.

Section 37 of the bill amends s. 468.613, F.S., to require the FBCAIB to waive examination, qualification, education, or training requirements, if an applicant is licensed in another state and the applicant:

- Is at least 18 years of age;
- Is of good moral character;
- Holds a valid license to practice as a building code administrator, inspector, or plans examiner in another state or territory of the United States for at least 10 years before the date of application; and
- Successfully completes an applicable examination administered by the ICC.

Under the bill, an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within two years after such license was last active.

[78] Section 468.613, F.S.; and Fla. Admin. Code R. 61G19-6.0035(4) (2019).
[79] *Supra* note 12 at pp. 19 and 90.

Home Inspectors

Present Situation

Home inspectors are regulated by part XV of ch. 468, F.S., and are licensed by the Home Inspection Services Licensing Program within the DBPR.

In order to obtain licensure as a home inspector, a person must:
- Have good moral character;
- Carry liability insurance;
- Complete a course study of at least 120 hours; and
- Pass the required examination.[80]

A person who is licensed in another state is eligible for a license by endorsement in Florida if the person:[81]
- Is of good moral character;
- Holds a valid license to practice home inspection services in another state or territory of the United States whose educational requirements are substantially equivalent to Florida; and
- Passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the Florida examination.

The DBPR may not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of the practice act until the investigation is complete and disciplinary proceedings have been terminated.[82]

There were 7,090 active licensed home inspectors and four disciplinary orders issued in the 2018-2019 fiscal year.[83]

Effect of Proposed Changes

Section 38 of the bill amends s. 468.8314(3), F.S., to provide an additional means for an applicant to qualify for licensure by endorsement if the applicant:
- Maintains a commercial general liability insurance policy in an amount equal to or greater than $300,000, as provided in s. 468.8322, F.S.; and
- Holds a valid license to practice home inspection services in another state or territory of the United States for at least 10 years before the date of application.

Under the bill, an application for a license by endorsement must be made when the applicant's license in another state or territory is active or within two years of such license being active.

[80] Section 468.8313, F.S.
[81] Section 468.8414(3), F.S.
[82] *Id*.
[83] *Supra* note 12 at pp. 19 and 90.

Engineering

Present Situation

The practice of engineering is regulated by the Florida Board of Professional Engineers (FBPE). Unlike most professions regulated by the DBPR, the administrative, investigative, and prosecutorial services for the FBPE are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.[84]

In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must graduate from an approved engineering curriculum of four years or more in an FBPE-approved school, college, or university, and have a record of four years of active engineering experience.[85]

A person who is licensed in another state is eligible for a professional engineering license by endorsement in Florida if the person:[86]

- Graduated from an FBPE-approved engineering program, has passed a licensing examination that is substantially equivalent to the fundamentals examination and principles and practice examination, and has satisfied the experience requirements; or
- Holds a valid license to practice engineering issued by another state or territory of the United States, if the criteria for issuance of the license was substantially the same as the licensure criteria that existed in this state at the time the license was issued.

The FBPE may deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 15 years and has 20 years of continuous professional-level engineering experience.[87]

The FBPE may also deem that an applicant who seeks licensure by endorsement who has passed an examination substantially equivalent to the fundamentals examination and the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 25 years and has had 30 years of continuous professional-level engineering experience.[88]

Effect of Proposed Changes

Section 39 of the bill amends s. 471.015(5), F.S., to reduce the number of years that a professional engineer must be licensed in another jurisdiction to be deemed to have passed the licensure examinations for a license by endorsement. If such applicant has been licensed in another jurisdiction for 10 years, the applicant is deemed to have passed the fundamentals examination. If such applicant has been licensed in another jurisdiction for 15 years, the

[84] Section 471.038(3), F.S.
[85] Section 471.013, F.S.
[86] Section 471.015(3), F.S.
[87] Section 471.015(5), F.S.
[88] *Id*.

applicant is deemed to have passed both the fundamental examination and the principles and practices examination.

The bill deletes the requirement that an applicant for endorsement have the applicable number of continuous professional-level engineering experience, i.e., 20 years for an applicant who is deemed to have passed the fundamentals examination, or 25 years for an applicant who is deemed to have passed both the fundamental examination and the principles and practices examination.

Certified Public Accountants

Present Situation

The Florida Board of Accounting (board) in the DBPR is the agency responsible for regulating and licensing nearly 35,570 active and inactive CPAs and more than 5,700 accounting firms in Florida.[89] The Division of Certified Public Accounting provides administrative support to the nine-member board, which consists of seven CPAs and two laypersons.[90]

A certified public accountant is a person who holds a license to practice public accounting in this state under ch. 473, F.S., or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141, F.S.[91]

The practice of public accounting includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements.[92] To engage in the practice of public accounting, as defined in s. 473.302(8)(a), F.S., an individual or firm must be licensed pursuant to ss. 473.308 or 473.3101, F.S., and business entities must meet the requirements of s. 473.309, F.S.

To be licensed as a certified public accountant, a person must:[93]
- Be of good moral character;
- Pass the licensure exam; and
- Have at least 150 semester hours of education, with a focus on accounting and business.

Section 473.308, F.S., provides for the licensure of individuals desiring to be licensed as a certified public accountant. Section 473.308(7), F.S., provides for licensure of certified public accountants by endorsement. To qualify for licensure by endorsement, the applicant must satisfy education, work experience, and good moral character requirements. Applicants for endorsement must also have completed at least 80 hours of continuing education that are equivalent to the continuing education requirements in this state during the two years immediately preceding the application for licensure by endorsement.[94]

[89] Supra, note 12 at p. 12.
[90] Section 473.303, F.S.
[91] *See* s. 473.302(4), F.S. Section 473.3141, F.S., permits a person who does not have an office in Florida to practice public accountancy in this state without obtaining a license under ch. 473, F.S., notifying or registering with the board, or paying a fee if the person meets the required criteria.
[92] Section 473.302(8), F.S.
[93] Sections 473.308(2)-(5), F.S.
[94] Rule 61H1-29.003, F.A.C.

If the applicant is not licensed in another state or territory, the applicant must:[95]

- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306, F.S.; and
- Have completed continuing professional education courses that are at least equivalent to the continuing professional education requirements for a Florida certified public accountant.

If the applicant is licensed in another state or territory, the applicant must:[96]

- Have satisfied licensing criteria that was substantially equivalent to the licensure criteria in this state at the time the license was issued, or if the licensing criteria was not substantially equivalent to Florida's, the applicant must have passed a national, regional, state of territorial licensing examination with examination criteria that was substantially equivalent to the examination criteria required in Florida;
- Have a valid license in another state or territory for at least 10 years before applying for a license in Florida; and
- Have passed a national, regional, state of territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state.

Effect of Proposed Changes

Section 40 of the bill amends s. 473.308, F.S., to delete the requirement that during the two years immediately preceding the application for licensure, applicants for a license by endorsement must have completed 80 hours of continuing education before they are eligible for such license.

Veterinary Medicine

Present Situation

Veterinary medical practice is regulated by ch. 474, F.S., and veterinarians are licensed by the Board of Veterinary Medicine.[97]

A veterinarian is a health care practitioner licensed by the board to engage in the practice of veterinary medicine in Florida,[98] which is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.[99]

To be licensed as a veterinarian, an applicant must:

- Graduate from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education (AVMAE), or from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary

[95] Section 473.308(7)(a), F.S.
[96] Section 473.308(7)(b), F.S.
[97] *See* ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.
[98] *See* s. 474.202(11), F.S.
[99] *See* s. 474.202(9), F.S. The profession also includes determining the health, fitness, or soundness of an animal, and performing any manual procedure for the diagnosis or treatment of pregnancy, fertility, or infertility of animals.

Colleges of the World (AVMARVC) and obtain a certificate from the Education Commission for Foreign Veterinary Graduates;
- Successfully complete the North American Veterinary Licensing Examination (NAVLE), or an examination determined by the board to be equivalent; and
- Successfully complete an examination of the laws and rules governing the practice of veterinary medicine in Florida.[100]

The Program for the Assessment of Veterinary Education Equivalence (PAVE) is a common alternative pathway for graduates of international, non-accredited programs to practice in the United States. PAVE evaluates such programs on behalf of participating American Association of Veterinary State Boards.[101]

A person who is licensed in another state or country is eligible for licensure by endorsement in Florida, if the person has:[102]
- Successfully completed an examination of the laws and rules governing the practice of veterinary medicine in Florida; and either:
- Holds a valid license to practice veterinary medicine in another jurisdiction of the United States for the 3 years immediately preceding the application for licensure, provided that the requirements for licensure are equivalent to or more stringent than a Florida license; or
- Has graduated from an AVMAE or AVMARVC program and has successfully completed an examination which is equivalent to or more stringent than the NAVLE.

The DBPR may not issue a license by endorsement to any applicant who is under investigation in any state, territory, or the District of Columbia for an act which would constitute a violation of the practice act until the investigation is complete and disciplinary proceedings have been terminated.[103]

A "limited-service veterinary medical practice" means offering or providing limited types of veterinary services for a limited time at any location that has a primary purpose other than providing veterinary medical services at a permanent or mobile establishment. Such practice must provide veterinary medical services for privately owned animals that do not reside at that location,[104] and must obtain a permit and must register each location where a limited service clinic is held. A licensed veterinarian must supervise the limited practice.[105]

The Board of Veterinary Medicine establishes, by rule, minimum standards for the operation of limited service veterinary medical practices,[106] which currently allows such practices to offer vaccinations, immunizations, and parasitic control services.[107]

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[100] Fla. Admin. Code R. 61G18-11.002 (2019).
[101] American Association of Veterinary State Boards, *International Pathways*, *available at:* https://www.aavsb.org/pave/ (last visited Feb. 4, 2020).
[102] Section 474.217(1), F.S.
[103] Section 474.217(2), F.S.
[104] Section 474.202(6), F.S.
[105] Section 474.215(7)-(8), F.S.
[106] Section 474.215(7), F.S.
[107] Fla. Admin. Code R. 61G18-15.007 (2019).

Effect of Proposed Changes

Section 41 of the bill amends s. 474.202(6), F.S., to codify the current Board of Veterinary Medicine rule allowing limited service veterinary practices to perform vaccinations, immunizations, and parasitic control, and authorizes those practices to perform microchipping.

Section 42 of the bill amends s. 474.207, F.S., to allow graduates of a veterinary medicine program recognized by the PAVE to be eligible for licensure as a veterinarian.

Section 43 of the bill amends s. 474.217, F.S., to allow an applicant for licensure by endorsement who has been licensed in a jurisdiction of the United States to qualify for licensure in Florida if the applicant has successfully passed a licensing examination that is equivalent, to or more stringent than, the NAVLE.

Section 95 of the bill amends s. 823.15, F.S., to authorize employees, agents, or contractors of qualifying public or private animal shelters, humane organizations, or animal control agencies to implant cats and dogs with specified microchips. The bill also permits these persons to contact the owner of record listed on a radio frequency identification microchip to verify pet ownership.

Barbering

Present Situation

The term "barbering" in ch. 476, F.S., the Barbers' Act, includes any of the following practices when done for payment by the public: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard, applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.[108]

An applicant for licensure as a barber must pass an examination. To be eligible to take the examination, the applicant must:

- Be at least 16 years of age;
- Pay the application fee; and
- Have held an active valid license in another state for at least one year,[109] or have a minimum of 1,200 hours of specified training.[110]

The Barbers' Board is authorized to establish by rule a procedure for a barber school or program to certify a person to take the licensure examination following completion of a minimum of 1,000 hours of training and for the licensure of such person who passes the examination. Upon passage of the examination by the person seeking licensure, the training requirement of 1,200

[108] *See* s. 476.034(2), F.S. The term does not include those services when done for the treatment of disease or physical or mental ailments.
[109] *See* s. 476.144(5), F.S. Licensure by endorsement may also allow a practitioner holding an active license in another state or country to qualify for licensure in Florida.
[110] *See* s. 476.114(2), F.S.; requiring the training to include, but is not limited to, the completion of services directly related to the practice of barbering at a licensed school of barbering, a public school barbering program, or a government-operated barbering program in Florida.

hours is deemed satisfied; failing the examination requires completion of the full training requirement.[111]

Alternatively, a person may apply for and receive a "restricted license" to practice barbering, which authorizes the licensee to practice only in areas in which he or she has demonstrated competency pursuant to rules of the Barbers' Board.[112] An applicant for a restricted barber license must satisfactorily complete 600 hours of training.[113]

Barbers must complete an educational course approved by the Barbers' Board on human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) as a condition for licensure and as continuing education as part of biennial license renewal or recertification.[114]

Effect of Proposed Changes

Section 44 of the bill amends s. 476.114(2)(c)2., F.S., effective January 1, 2021, to decrease the minimum number of hours of training required for licensure from 1200 hours to 900 hours. The bill also provides that the training must be in sanitation, safety, and laws and rules.

Section 45 of the bill amends s. 476.144(5), F.S., to require the Barbers' Board to provide licensure by endorsement to an applicant who holds a current active license to practice barbering in another state.

Nail and Facial Specialists, Hair Braiders, Hair Wrappers, and Body Wrappers

Present Situation

Chapter 477, F.S., governs the licensing and regulation of cosmetologists, hair braiders, hair wrappers, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state. The Board of Cosmetology, within the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.[115]

Individuals are prohibited from providing manicures, pedicures, or facials in Florida without first being licensed as a cosmetologist or registered as a nail specialist, facial specialist, or full specialist.[116]

A "specialist" is defined as "any person holding a specialty registration in one or more of the specialties registered under ch. 477, F.S."[117] The term "specialty" is defined as "the practice of one or more of the following:

[111] *See* s. 476.114(2), F.S.
[112] *See* s. 476.144(6), F.S.
[113] Fla. Admin. Code R. 61G3-16.006 (2019).
[114] Section 455.2228, F.S.
[115] *See* s. 477.015, F.S., and Department of Business and Professional Regulation, *Cosmetology, available at:* http://www.myfloridalicense.com/DBPR/cosmetology/ (last visited Feb. 4, 2019).
[116] See ss. 477.013(6) and 477.0201, F.S.
[117] *See* s. 477.013(5), F.S.

- Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive;
- Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet; and
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services."[118]

The term "cosmetologist" is defined as "a person who is licensed to engage in the practice of cosmetology."[119] "Cosmetology" is defined as "the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation." This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.[120]

A nail specialist may complete manicures and pedicures, and a full specialist may complete manicures, pedicures, and facials.[121] Manicures and pedicures, as a part of cosmetology services, are required to be provided in a licensed specialty salon or cosmetology salon.[122] All cosmetology and specialty salons are subject to inspection by the DBPR.[123]

To qualify for a specialist license, the applicant must be at least 16 years of age and obtain a certificate of completion from an approved specialty education program.[124]

The specialty education program consists of:
- 240 hours of training for a nail specialty;
- 260 hours of training for a facial specialty; and
- 500 hours of training for a full specialty.[125]

The applicant must submit a specialist application for registration with the DBPR with a registration fee not to exceed $50.[126]

The act of applying polish to fingernails and toenails falls under the scope of manicuring, even if the individual is not cutting, cleansing, adding, or extending the nails.[127] Therefore, individuals seeking to apply polish to fingernails and toenails for compensation are required to obtain a

[118] *See* s. 477.013(6), F.S.
[119] *See* s. 477.013(3), F.S.
[120] *See* s. 477.013(4), F.S. A licensed cosmetologist is not required to register separately as a hair braider, hair wrapper, body wrapper, or specialist.
[121] *See* s. 477.013(6), F.S.
[122] *See* s. 477.0263, F.S. Under s. 477.0135(3), F.S., licensing is not required for a person whose occupation is confined solely to cutting, trimming, polishing, or cleansing fingernails of customers in an active, licensed barbershop, and who did so before October 1, 1985.
[123] *See* s. 477.025(9), F.S.
[124] *See* s 477.0201, F.S.
[125] Fla. Admin. Code R. 61G5-22 (2019).
[126] Section 477.026, F.S.
[127] *See* s. 477.013(6)(a) and (b), F.S.

registration as a specialist or a license as a cosmetologist, as the DBPR does not issue a separate license for polishing nails.

The application of cosmetic products (makeup) by certain persons is exempted from ch. 477, F.S., under limited conditions, including application of such products in photography studio salons, in connection with certain retail sales, or during the production of qualified films.[128] In addition, persons providing makeup in a theme park or entertainment complex to actors or the general public are exempt from licensing requirements.[129]

"Hair braiding" means "the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemically treating and does not include the use of hair extensions or wefts."[130]

"Hair wrapping" means the wrapping of manufactured materials around a strand of human hair, for compensation, without cutting, coloring, permanent waving, relaxing, removing, weaving, chemically treating, braiding, using hair extensions, or performing any other service defined as cosmetology.[131]

"Body wrapping" means "a treatment program that uses herbal wraps for the purpose of cleansing and beautifying the skin of the body, but does not include the application of oils, lotions, or other fluids to the body, except fluids contained in presoaked materials used in the wraps, or manipulation of the body's superficial tissue, other than that arising from compression emanating from the wrap materials."[132]

Cosmetologists and cosmetology specialists must complete an educational course approved by the Board of Cosmetology on HIV and AIDS as a condition for licensure or registration and as continuing education as part of biennial license or registration renewal.[133]

A person who wishes to practice as a hair braider, hair wrapper, or body wrapper must register with the DBPR, pay the $25 registration fee;[134] and:

- For hair braiders, take a two-day board-approved 16-hour education course consisting of:
  - Five hours of HIV/AIDS and other communicable diseases,
  - Five hours of sanitation and sterilization,
  - Four hours of disorders and diseases of the scalp, and
  - Two hours of studies regarding laws affecting hair braiding.
- For hair wrappers, take a one-day board-approved six-hour education course consisting of:
  - HIV/AIDS and other communicable diseases,
  - Sanitation and sterilization, and
  - Disorders and diseases of the scalp, and studies regarding laws affecting hair wrapping.

[128] *See* ss. 477.013(11), 477.0135(1)(f), and 477.0135(5), F.S.
[129] *See* s. 477.0135(6), F.S.
[130] Section 477.013(9), F.S. A 'weft" of hair is a long curtain of hair that has a seam at the top and is found on wigs and hair extensions. *See* https://www.voguewigs.com/what-is-a-weft.html (last visited Feb. 4, 2020).
[131] Section 477.013(10), F.S.
[132] Section 477.013(11), F.S.
[133] Section 455.2228, F.S.
[134] Section 477.026, F.S.

- For body wrappers, take a two-day board-approved 12-hour education course consisting of:
  - HIV/AIDS and other communicable diseases,
  - Sanitation and sterilization,
  - Disorders and diseases of the skin, and
  - Laws affecting body wrapping.[135]

Hair braiders, hair wrappers, and body wrappers are not required to complete continuing education as a condition for renewal of the registration.[136]

In Florida, cosmetology and specialty salons must be licensed.[137] Such salons are inspected periodically by the DBPR, in accordance with sanitary standards set forth by the Board of Cosmetology.[138]

Cosmetology services must be performed in a licensed cosmetology or specialty salon by a properly licensed professional,[139] except when services are performed in connection with:

- A special event by a properly licensed person who is employed by a licensed salon. Arrangements for the performance of such cosmetology services must be made through a licensed salon;[140]
- A client for reasons of ill health is unable to go to a licensed salon. Arrangements for the performance of such cosmetology services must be made through a licensed salon; or
- The motion picture, fashion photography, theatrical, or television industry; a photography studio salon; a manufacturer trade show demonstration; or an educational seminar.[141]

The Board of Cosmetology is required to certify an applicant as qualified for licensure by endorsement if the applicant holds a current active license to practice cosmetology in another state. The board may not require proof of educational hours if the other state requires at least 1,200 hours of education and passage of a written examination. This provision is not applicable to applicants in the other state who received their license through an apprenticeship program.[142]

The Board of Cosmetology is also required to provide by rule the continuing education requirements to maintain the cosmetology license not to exceed 16 hours biennially. Any person whose practice is confined to hair braiding, hair wrapping, or body wrapping are exempt from the continuing education requirements.[143]

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[135] *See* s. 477.0132, F.S. Courses for hair braiding, hair wrapping, and body wrapping generally cost between $75 and $350. Examples include: 1STOPCEU.com, *Home*, *available at:* https://www.1stopceu.com/livezilla/knowledgebase.php?article=6332971e65219f8cdfc5d16d8b113c10 (last visited Feb. 4, 2020); and JT's Beauty Shop, Inc., *Florida State Certified Courses (Theory)*, *available at:* http://www.jtbeautysalon.com/ (last visited Feb. 4, 2020).
[136] Section 477.019(7)(b), F.S.
[137] Section 477.025(1), F.S.
[138] Section 477.025(9), F.S.; and Fla. Admin. Code R. Ch. 61G5-20 (2019).
[139] Section 477.0263(1), F.S.
[140] A "special event" is defined as a wedding or fashion show in Fla. Admin. Code R. 61G5-20.0015(1) (2019).
[141] Sections 477.0263(2) through (4), F.S.
[142] Section 477.019(6), F.S.
[143] Section 477.019(7), F.S.

Effect of Proposed Changes

Section 46 of the bill amends s. 477.013(9), F.S., to expand the definition of "hair braiding" to include the weaving or interweaving of natural human hair or commercial hair, and the use of hair extensions or wefts. Under current law, the use of hair extensions or wefts is excluded from "hair braiding."

Section 47 of the bill repeals s. 477.0132, F.S., which provides that:

- Registration is required for hair braiding, hair wrapping, and body wrapping, and requires those registrants to take specified courses approved by the Board of Cosmetology.
- Hair braiding, hair wrapping, and body wrapping are not required to be practiced in a cosmetology salon or specialty salon; and
- Disposable implements must be used, or all implements must be sanitized in a disinfectant approved for hospital use or approved by the Federal Environmental Protection Agency, when hair braiding, hair wrapping, or body wrapping is practiced outside a cosmetology salon or specialty salon.

Section 48 of the bill amends s. 477.0135, F.S., to specifically exempt a person whose occupation or practice is confined solely to hair braiding, hair wrapping, body wrapping, applying polish to fingernails and toenails, or makeup removal from registration requirements.

Section 49 of the bill amends s. 477.019(6), F.S., to delete the requirement that an applicant for licensure by endorsement submit proof of educational hours if the license was issued in a state that requires 1,200 or more hours of prelicensure education and passage of a written examination. It also deletes the exemption for persons licensed in another state who received their license through an apprenticeship program.

The bill also amends s. 477.019(7), F.S., to decrease the number of hours of continuing education required for the biennial renewal of a cosmetology license from 16 hours to 10 hours.

Section 50 of the bill amends s. 477.0201(1), F.S., effective January 1, 2021, to reduce the number of hours required for a specialist registration required under current rules.

The bill requires:

- 180 hours of training for a nail specialty (the current rule requires 240 hours);
- 220 hours of training for a facial specialty (the current rule requires 260 hours); and
- 400 hours of training, or the number of hours required to maintain minimum Pell Grant requirements, for a full specialty (the current rule requires 250 hours).[144]

Section 51 of the bill deletes the requirement in s. 477.026(1)(f), F.S., relating to license fees for hair braiders, hair wrappers, and body wrappers.

Section 52 of the bill amends s. 477.0263(4), F.S., to delete the requirement that an appointment for a special event has to be made through a licensed salon. The bill permits a properly licensed professional to perform hair shampooing, hair cutting, hair arranging, nail polish removal, nail

[144] *See* Fla. Admin. Code R. 61G5-22 (2019).

filing, nail buffing, and nail cleaning outside of a salon when the service is performed by a licensed person.

Section 53 of the bill amends s. 477.0265, F.S., to delete a reference to body wrapping in a prohibition respecting the advertising of services.

Section 54 of the bill amends s. 477.029(1)(a), F.S, to delete the criminal penalty for hair braiders, hair wrappers, and body wrappers who offer or provide services without being licensed or registered.

Architecture and Interior Design

Present Situation

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations. The Board of Architecture and Interior Design, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.[145]

The practice or offering of architectural or interior design services to the public through certain business organizations is authorized for:

- Licensees acting through a corporation, limited liability company, or partnership; or
- A corporation, limited liability company, or partnership acting through licensees as agents, employees, officers, or partners.[146]

An architecture or interior design business corporation, limited liability company, partnership, or a person practicing under a fictitious name, which is offering architecture or interior design service to the public, must obtain a certificate of authorization prior to practicing.[147]

Interior Design

A person may not practice interior design unless the person is a registered interior designer or otherwise exempt from the requirement to register. If holding a valid license by the Board of Architecture and Interior Design and choosing to relinquish that license or failing to renew that license, a person may not use the title "interior designer" or "registered interior designer," or words to that effect.[148]

Section 481.203(4), F.S., defines a "certificate of registration" to mean a license issued by the DBPR to a natural person to engage in the practice of architecture or interior design.

[145] *See* s. 481.205, F.S., relating to the authority of the Board of Architecture and Interior Design. The board consists of 11 members. Five members must be registered architects; three members must be registered interior designers; and three members must be laypersons who are not, and have never been, architects, interior designers, or members of any closely related profession or occupation. At least one member of the board must be 60 years of age or older.
[146] Section 481.219(1), F.S.; such practice must comply with all the requirements in s. 481.219, F.S.
[147] Section 481.219(2)-(3), F.S.
[148] Sections 481.223(1)(b) and (c), F.S.

The following persons may practice interior design without a license:[149]

- A person who performs interior design services or interior decorator services for any residential application, provided that such person does not advertise as, or represent himself or herself as, an interior designer.[150]
- An employee of a retail establishment providing "interior decorator services" on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, provided that such employee does not advertise as, or represent himself or herself as, an interior designer.[151]

Applicants for an interior design license must pass a three-part national examination administered by the National Council for Interior Design Qualification (NCIDQ), at a cost of $1,335, including the application fee. Requirements to sit for the NCIDQ, including education and experience requirements, mirror Florida's licensure prerequisites.[152]

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of $75, an unlicensed activity fee of $5, and a biennial renewal fee of $100.[153] A business entity has no regulatory obligations other than to obtain licensure.

Business entities, or persons operating under fictitious names, offering interior design services must also obtain a certificate of authorization. At least one principal officer or partner and all personnel who act on the business entity's behalf in the state must be registered interior designers.[154]

Florida is one of eight U.S. states or territories requiring interior designers to be licensed. Approximately 20 other states allow only those persons meeting statutory requirements to hold themselves out as "registered interior designers."[155]

Use of Seals by an Interior Designer

Section 481.221(3), F.S., authorizes the Board of Architecture and Interior Design to prescribe, by rule, one or more forms of seal to be used by licensed interior designers. Each registered interior designer must obtain a seal. All drawings, plans, specifications, or reports prepared or issued by the registered interior designer and filed for public records, and all final documents provided to the owner or the owner's representative must be signed by the licensee, dated, and sealed with the seal. The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.

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[149] Section 481.229(6), F.S.
[150] Section 481.229(6)(a), F.S., provides that "residential applications" includes all types of residences, including, but not limited to, residence buildings, single-family homes, multifamily homes, townhouses, apartments, condominiums, and domestic outbuildings appurtenant to one-family or two-family residences. "Residential applications" does not include common areas associated with instances of multiple-unit dwelling applications.
[151] Section 481.229(6)(b), F.S.
[152] *See* Council for Interior Design Qualification, *Become NCIDQ Certified, available at:* http://www.cidq.org.
[153] *See* Fla. Admin. Code R. 61G1-17.001 and R. 61G1-17.002 (2019).
[154] *See* s. 481.219, F.S.
[155] Commercial Interior Design Association, *State Information, available at:* http://advocacy.iida.org/#interiordesignlaws (last visited Feb. 4, 2020).

Architects

A person who is licensed in another state is eligible for a professional architect license by endorsement in Florida if the person:[156]

- Qualifies to take the licensure examination, and has passed the licensure examination or a substantially equivalent examination in another jurisdiction, and has satisfied the internship requirements set forth in s. 481.211, F.S. for architects;
- Holds a valid license to practice architecture issued by another jurisdiction of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued; or
- Has passed the licensure examination and holds a valid certificate issued by the National Council of Architectural Registration Boards, and holds a valid license to practice architecture issued by another state or jurisdiction of the United States.

Effect of Proposed Changes

Sections 55 through 69 of the bill amend part I of ch. 481, F.S., to repeal licensure requirements for interior designers and interior design businesses. In lieu of a license requirement, the bill provides a voluntary certificate or registration to practice interior design, however, a certificate of registration is not required to practice interior design.

Section 57 of the bill amends s. 481.205, F.S., to revise the membership of the Board of Architecture and Interior Design to reflect that the board's duties include receiving complaints regarding investigating and disciplining persons with a certificate of registration for the practice of interior design.

Section 58 of the bill authorizes the Board of Architecture and Interior Design to impose a nonrefundable fee of not more than $75 for a certificate of registration and for the biennial renewal of the certificate of registration.

Section 59 of the bill amends s. 481.209, F.S., to revise the qualifications for a certificate of registration to practice interior design. The bill repeals the education and experience requirements in current law. Under the bill, to qualify for a certificate of registration, a person must submit written proof that he or she has successfully passed the qualification examination prescribed by the NCIDQ or its successor entity, or the California Council for Interior Design Certification or its successor entity, or has successfully passed an equivalent exam as determined by the department.

The bill permits a person licensed as an interior designer in good standing as of July 1, 2020, to obtain a certificate of registration as a registered interior designer.

Section 60 of the bill amends s. 481.213(3), F.S., to revise the requirements for licensure by endorsement for a professional architect license to require an applicant to complete a class approved by the Board of Architecture on the Florida Building Code.

[156] Section 481.213, F.S.

The bill creates s. 481.213(8), F.S., to provide that a person who performs residential interior design services or interior decorator services is not required to hold a certificate of registration for interior design. The bill repeals s. 481.223(1)(b), F.S., which requires registration as a condition to practice interior design, unless the person is subject to an exemption from the registration requirement.

Sections 61 and 65 of the bill amend ss. 481.2131(1) and 481.221, F.S., respectively, to revise the requirements for seals used by a registered interior designer. Under the bill, if interior design documents are submitted for a building permit by an individual performing interior design services who is not a licensed architect, the documents must include a seal issued by the DBPR.

Additionally, the bill amends s. 481.221, F.S., to change the authority to require that the form of the seal for architects and interior designers be prescribed by rule of the DBPR instead of by rule of the Board of Architecture and Interior Design.

Section 62 of the bill amends s. 481.215(5), F.S., to require architects and registered interior designers to complete two hours in specialized or advanced courses on any portion of the Florida Building Code, and provides that such hours count towards the continuing education requirement.

Section 63 of the bill provides procedures for revocation of a registration.

Section 64 of the bill amends s. 481.219, F.S., to delete the requirement that architects and interior designers obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that architects must qualify their business organizations (and disclose operations under a fictitious name) through their individual licenses.

Architects who act as qualifying agents must inform the DBPR of any change in their relationship with the qualified business, and if that qualifying agent is the business's only qualifying agent, the business has 60 days to obtain a replacement qualifying architect. If a business does not have a qualifying agent, it may not engage in the practice of architecture, unless the executive director or chair of the Board of Architecture authorizes another registered architect or interior designer employed by the business organization to temporarily serve as its qualifying agent for no more than 60 days.

Regarding interior designers, the current law provision in s. 481.219(7), F.S., which provides that an interior designer who signs and seals the interior design drawings, plans, or specifications is liable for professional services performed, is not amended by the bill to remove the statutory liability.

Section 65 of the bill amends ss. 481.221, F.S., to revise the requirements relating to seals used by architects and interior designers.

The bill amends s. 481.221(10), F.S., to require each business organization to include the license number of the registered architect who serves as the qualifying agent for that business organization in any newspaper, telephone directory, or other advertising medium used by the

business organization. The bill does not require that a registered interior designer include his or her license number in such advertisements for a business organization.

The bill retains the requirement in current law that an architect must include his or her license number in in any newspaper, telephone directory, or other advertising medium used by the architect. The bill removes the requirement in current law for a registered interior designer to include his or her license number in such advertisements.

Section 66 of the bill provides that a person not registered as an interior designer may use the title "interior designer" or "interior design firm."

Section 67 amends s. 481.2251, F.S., to revise the requirements for disciplinary proceedings against registered interior designers. The bill replaces the term "license" with the term "register." In place of suspension or revocation of a license, the bill authorizes the Board of Architecture and Interior Design to remove a registered interior designer from the registry for a violation of any of the prohibited acts listed in s. 481.2251, F.S. The bill repeals several grounds for disciplinary action by the board, and the grounds for denial of a registration, including:

- Failing to report to the board that a person is violating part I of ch. 481, F.S., or rule of the board, or an order of the board;
- Failing to perform a statutory or legal obligation; and
- Accepting compensation from someone other than a client without full disclosure to the client.

The bill reduces the applicable fines payable by an interior designer from $1000 to $500 for each violation or separate offense. The bill also reduces the fine for a violation of the Florida Building Code by an interior designer from $5,000 to $2,500.

Section 68 of the bill amends s. 481.229(6), F.S., to repeal the exemption from the application of part I of ch. 481, F.S., for persons who perform interior design services or interior decorator services for residential applications.

Section 96 of the bill amends s. 558.002, F.S., to replace the reference to a licensed interior designer with the term "registered interior designer" in the definition of the term "design professional" under ch. 558, F.S, for resolving construction defects.

Landscape Architecture Business Organization

Present Situation

Part II of ch. 481, F.S., governs the licensing and regulation of landscape architects and related business organizations in Florida. The Board of Landscape Architecture, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.

A person may not knowingly practice landscape architecture[157] unless the person holds a valid license issued pursuant to part II of ch. 481, F.S.[158] A corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of part II of ch. 481, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, are registered landscape architects;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership are registered landscape architects; and
- The corporation or partnership has been issued a certificate of authorization by the board.[159]

In order to be licensed as a landscape architect, a person must:

- Complete a landscape architecture degree program approved by the Landscape Architectural Accreditation Board, or have six years of practical experience, with some credit available for education credits;[160]
- Pass the nationally recognized Landscape Architecture Registration Examination (LARE);[161] and
- Have two years of practical experience, not including any experience used to qualify to take the examination.[162]

A person who is licensed in another state is eligible for a landscape architecture license by endorsement in Florida if they:[163]

- Have graduated from an approved program or have related experience, have an additional year of practical experience, and have passed a licensing examination which is substantially equivalent to the LARE; or
- Hold a valid license to practice landscape architecture issued by another state or territory of the United States, if the criteria for issuance of such license were substantially identical to the licensure criteria which existed in Florida at the time the license was issued.

If an applicant for a license by endorsement has been licensed for at least five years in another jurisdiction without disciplinary history, the additional year of practical experience is not required.[164]

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of $200, an unlicensed activity fee of $5, and a biennial renewal fee of $337.50.[165] A business entity has no regulatory obligations other than to obtain

[157] The term "landscape architecture" includes but is not limited to the determination of building settings, drainage, and contouring of land and water forms, and other activities including design in connection with land development for the preservation, conservation, enhancement, or determination of proper land uses, natural features, or naturalistic and aesthetic values. *See* s. 481.303(6)(a)-(d), F.S., relating to the professional services included in landscape architecture.
[158] Section 481.323(1)(a), F.S.
[159] Section 481.319(1), F.S.
[160] Section 481.309(1)(b), F.S.
[161] Fla. Admin. Code R. 61G10-11.001 (2019).
[162] Section 481.310, F.S.
[163] Section 481.311(3), F.S.
[164] Fla. Admin. Code R. 61G10-11.004(2)(e) (2019).
[165] *See* Fla. Admin. Code R. 61G10-12.002 (2019).

licensure and notify the DBPR within one month of any change in the information contained in its license application.[166]

Effect of Proposed Changes

Sections 70 through 77 of the bill amend part II of ch. 481, F.S., to remove the requirement that landscape architects obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that landscape architects must qualify their business organizations (and disclose operations under a fictitious name) through their individual licenses.

The bill repeals the DBPR's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation or partnership offering landscape architectural services. Further, the bill repeals the Board of Landscape Architecture's ability to grant a temporary certificate of authorization for a business organization that is seeking to work on one project in Florida for a period not to exceed one year to an out-of-state corporation, partnership, or firm.

The bill provides that a corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of part II of ch. 481, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, and all of the personnel of the business organization who act on its behalf as landscape architects are registered landscape architects; and
- One or more of the officers, directors, or owners of the corporation, or one or more of the partners of the partnership are registered landscape architects.

Under the bill, landscape architects who qualify as a business organization must inform the DBPR within one month after any change in the information in the license application for the qualified business. All landscape architects must notify the DBPR of termination of employment with a licensed business organization within one month after the termination.

Section 71 of the bill amends s. 481.310, F.S., to provide that an applicant who holds a master's degree in landscape architecture and a bachelor's degree in a related field does not have to demonstrate one year of practical experience in landscape architecture to qualify for licensure.

Section 72 of the bill amends s. 481.311(3), F.S., to provide that a person is eligible for a license by endorsement if they hold a valid license to practice landscape architecture in another state or territory of the United States.

The bill removes the requirements for licensure by endorsement requiring the applicant to have:

- Been licensed in the other jurisdiction for at least 10 years; and
- Passed a licensing examination which is substantially equivalent to the examination required in Florida.

Section 73 amends s. 481.313, F.S., to authorize landscape architects to receive hour-for-hour credit for certain approved continuing education courses approved by the Landscape Architecture Continuing Education System or another nationally recognized clearinghouse for

[166] *See* s. 481.319(4), F.S.

continuing education. To obtain continuing education credit, a licensed landscape architect must submit proof satisfactory to the Board of Landscape Architecture that the course is approved by the continuing education clearinghouse, including a syllabus or outline of the course and proof of actual attendance.

Section 74 amends s. 481.317(2), F.S., to delete the provision allowing the issuance of a temporary certificate of authorization.

Section 75 of the bill deletes s. 481.319(5), F.S., which provides that disciplinary action against a corporation or partnership is to be administered similar to disciplinary action against a registered landscape architect. Under current law, practicing landscape architecture through a corporation or partnership does not relieve a landscape architect from personal liability for professional acts, unless otherwise agreed by contract.[167]

Construction Contractors

Present Situation

Construction contractors are regulated by part I of ch. 489, F.S., and licensed by the Construction Industry Licensing Board (CILB).

In order to become a construction contractor, an applicant for a license by examination must:[168]
- Be of good moral character;
- Be at least 18 years of age;
- Successfully pass the certification examination; and
- Meet eligibility requirements according to a combination of education and experience as approved by the board, which must include at least one year of related experience.

If an applicant wishes to use test scores from a previous examination to qualify for another license type, the examination score used must be from a portion of the examination taken within four years from the date of the most recently passed portion of the examination.[169]

A person who is licensed in another state is eligible for a license by endorsement in Florida if the:
- Criteria for issuance of such license were substantially equivalent to Florida's current certification criteria; or
- State or territory has entered into a reciprocal agreement with the board for the recognition of contractor licenses issued in that state, based on criteria for the issuance of such licenses that are substantially equivalent to the criteria for certification in this state.[170]

An unlicensed person may perform work that falls under the scope of contracting if it is casual, minor, or inconsequential in nature, and the aggregate contract price for all labor and materials is less than $1,000, subject to certain requirements. This is generally called the "handyman

[167] *See* s. 481.319(6), F.S., and s. 558.0035, F.S.
[168] Sections 489.111(2)(c)1. through 3., F.S.
[169] Fla. Admin. Code R. 61G4-16.005 (2019).
[170] Section 489.115(3), F.S.

exception." The "handyman exception" was enacted in 1979, and the contractual amount to fit within the exception has not been updated since.[171]

Effect of Proposed Changes

Section 78 amends s. 489.103(9), F.S., to increase the maximum contract[172] price for the "handyman exception" from $1,000 to $2,500.

Sections 79 and 80 amends ss. 489.111(2)(c), and 489.113(1) F.S., respectively, to exempt a person with a four-year baccalaureate degree in building construction and a GPA of 3.5 or higher from the requirement to successfully complete the construction contractor's license examination.

Section 489.111(2)(c), F.S., eliminates the need for applicants to retake the examination to upgrade an existing residential, building, air conditioning, or swimming pool license if they have previously passed the required examination.

The bill clarifies that a licensure examination passage does not expire and may be used at any time to qualify for another license.

Section 81 creates s. 489.115(3)(d), F.S., to allow an applicant to qualify for a license by endorsement if the applicant has:

- Held a valid license to practice the same type of construction contracting in another state or territory for at least 10 years before the date of application;
- Complied with workers' compensation requirements, provided proof of the financial health of their business organization, and submitted fingerprints for the required criminal background check; and
- Completed an approved four hour continuing education course on the Florida Building Code, as well as a one hour course on the laws and rules of contracting in Florida.

The bill authorizes the CILB to consider whether an applicant for licensure by endorsement has had licenses to practice revoked, suspended, or was otherwise acted against by the licensing authority of another state, territory, or country. Under the bill, an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within two years after such license was last active.

The bill requires an applicant for licensure by endorsement for a Division I contractor's license or a roofing contractor's license to complete a two-hour course in the Florida Building Code which includes information on wind mitigation techniques. The course may be completed online.

Electrical Contractors

Present Situation

Electrical and alarm system contractors are regulated by part II of ch. 489, F.S., and licensed by the Electrical Contractors' Licensing Board (ECLB).

[171] Section 489.103(9), F.S.
[172] This includes labor and materials.

In order to become an electrical contractor or alarm system contractor, a person must submit an application to the DBPR and must:

- Be at least 18 years of age;
- Be of good moral character;
- Successfully pass the certification examination; and
- Meet eligibility requirements according to a combination of education and experience as approved by the ECLB.[173]

Electrical contractors and burglar alarm contractors must complete 14 hours of continuing education every two years for license renewal. Such continuing education must include at least seven hours on technical subjects, one hour on workers' compensation, one hour on workplace safety, one hour on business practices, and for alarm system contractors and electrical contractors engaged in alarm system contracting, two hours on false alarm prevention.[174]

A person who is licensed in another state is eligible for a license by endorsement in Florida if the:

- Criteria for issuance of such license was substantially equivalent to Florida's current certification criteria; or
- State or territory has entered into a reciprocal agreement with the ECLB for the recognition of contractor licenses issued in that state, based on criteria for the issuance of such licenses that are substantially equivalent to the criteria for certification in Florida.

Only examinations from North Carolina, California, and Georgia have been found to be substantially similar to Florida's examination.[175]

A "burglar alarm system agent" means a person:

- Who is employed by a licensed alarm system contractor or licensed electrical contractor; and
- Whose specific duties include any of the following activities of alarm system contracting: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring an intrusion or burglar alarm system for compensation.[176]

Before an electrical contractor or alarm system contractor may employ an agent, the agent must complete a minimum of 14 hours of training from an ECLB-approved provider, which includes basic alarm system electronics in addition to related training including CCTV and access control training, with at least two hours of training in the prevention of false alarms.[177]

[173] Sections 489.511(1)(a) and (b), F.S.
[174] Section 489.517(4), F.S.
[175] Department of Business and Professional Regulation, *Certified Electrical Contractor – Endorsement, available at:* https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1023&clientCode=0801&XACT_DEFN_ID=3688 (last visited Feb. 4, 2020).
[176] Section 489.505(25), F.S.
[177] Section 489.518(1)(b), F.S.

Effect of Proposed Changes

Section 82 amends s. 489.511(5), F.S., to allow an applicant to qualify for a license by endorsement if the applicant has:

- Held a valid license to practice electrical or alarm system contracting in another state or territory for at least 10 years before the date of application;
- Complied with workers' compensation requirements, provided proof of the financial health of their business organization, and is of good moral character; and
- Completed an approved four hour continuing education course on the Florida Building Code, as well as a one hour course on the laws and rules of electrical and alarm system contracting in Florida.

Under the bill, an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within two years after such license was last active.

The bill requires an applicant for licensure by endorsement for an electrical contractor's license to complete a two-hour course on the Florida Building Code which includes information on wind mitigation techniques. The course may be completed online.

Section 83 amends s. 489.517, F.S., to reduce the number of hours of continuing education that specialty and alarm system contractors must complete during each biennial license period from 14 hours to seven hours. The bill also reduces the number of hours of continuing education that must be devoted to technical subjects from seven hours to one hour.

The bill provides that for licensed specialty contractors or alarm system contractors, of the required seven classroom hours of continuing education, at least one hour must be on technical subjects, one hour must be on workers' compensation, one hour must be on workplace safety, one hour must be on business practices, and two hours must be on false alarm prevention.

The bill adds a requirement that each certificateholder or registrant licensed as an electrical contractor must provide proof that they have completed 11 classroom hours of at least 50 minutes each of continuing education every two years since the issuance or renewal of the certificate of registration.

The bill provides that for licensed electrical contractors, of the required 11 classroom hours of continuing education, at least seven hours must be on technical subjects, one hour must be on workers' compensation, one hour must be on workplace safety, and one hour must be on business practices. Additionally, electrical contractors engaged in alarm system contracting must also complete two hours on false alarm prevention.

Section 84 amends s. 489.518(1)(b), F.S., to allow a burglar alarm system agent to complete their required 14 hour training course within 90 days after employment by an electrical or alarm system contractor.

Professional Geology

Present Situation

A person must be licensed as a professional geologist by the Board of Professional Geologists to practice geology in Florida, which includes performing, or offering to perform, geological services, including consultation, investigation, evaluation, planning, and geologic mapping.[178]

In order for a person licensed by another state as a professional geologist to be eligible for licensure by endorsement in Florida, an applicant must:

- Be at least 18 years of age;
- Not have committed any act or offense which would constitute the basis for disciplining a Florida professional geologist;
- Have graduated with a degree in geology, or other degree acceptable to the board with at least 30 semester hours or 45 quarter hours of geological coursework;
- Have at least five years of professional geological work experience;
- Have an active license in good standing in a jurisdiction of the United States;
- Have passed an examination which has been approved by the board as substantially equivalent to or more stringent than those of Florida; and
- Have successfully passed the laws and rules examination.[179]

However, the DBPR may not issue a license to any applicant who is under investigation in any jurisdiction for an offense which would constitute a violation of the practice act.[180]

A firm, corporation, or partnership may offer geology services to the public, if the business organization has:

- Filed with the Board of Professional Geologists the name and license number of its affiliated licensed geologists;
- Been issued a certification of authorization by the DBPR;
- A license geologist date, sign, and seal all final geological documents prepared or approved for the entity's use; and
- Filed an application with the DBPR.[181]

A professional geologist is not relieved of personal liability due to practicing as a business organization.[182]

Any change in the business operating relationship between the business organization and the qualifying geologist must be reported to the DBPR within 30 days.

[178] Section 492.102(7), F.S.
[179] Section 492.105(1), F.S.
[180] Section 492.105(3), F.S.
[181] Section 492.111, F.S.
[182] *Id.*

Applicants for a geology business certificate of authorization must pay an application fee of $350 and a biennial renewal fee of $350.[183] There are no additional requirements to be met by the business entity, such as an inspection requirement.

Effect of Proposed Changes

Sections 85 through 89 of the bill repeal all provisions that require a certificate of authorization to practice geology through a business organization. A professional geologist may continue to practice through a business organization.

Section 86 amends s. 492.108(1), F.S., to allow a person licensed in another state to qualify for licensure by endorsement if the applicant has:

- A valid license to practice geology in another state, trust, territory, or possession of the United States for at least 10 years before the date of application; and
- Successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the Florida examination.

If the applicant has met the requirements for a license by endorsement but has not successfully completed an examination that is equivalent to or more stringent than the examination required by the board, the applicant may choose to take the examination required by the board.

The bill requires an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within two years after such license was last active.

Public Food Service Establishments

Present Situation

Section 509.013(5)(a), F.S., defines the term "public food service establishment" to mean:

> …any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

The Division of Hotels and Restaurants within the DBPR is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.

There are several exclusions from the definition of public food service establishment, including:[184]

[183] Fla. Admin. Code R. 61G16-3.001 (2019).
[184] Section 509.013(5)(b), F.S.

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests;
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests;
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier;
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families;[185]
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.;
- Any place of business serving only ice, beverages, popcorn, and prepackaged items;
- Any vending machine that dispenses any food or beverage other than potentially hazardous foods;[186] and
- Any research and development test kitchen limited to the use of employees and not open to the general public.

Effect of Proposed Changes

Section 90 of the bill creates s. 509.102, F.S, to preempt the regulation of mobile food dispensing vehicles (food trucks) to the state. The bill prohibits local government from requiring a separate license, registration, or permit to operate a food truck, or payment of fees for a license, registration, or permit. Also, a local government may not prohibit food trucks from operating within the entirety of the government's jurisdiction. The bill clarifies that the authority of local governments to regulate the operation of food trucks is not affected, except that local governments may not require a separate license, registration, or permit to operate a food truck, or require payment of fees for a license, registration, or permit.

State Boxing Commission

Present Situation

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,[187] and mixed martial arts[188] by the Florida State Boxing Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.[189]

[185] Other similar food service establishments are regulated under s. 381.0072, F.S.
[186] Vending machines located in a facility regulated under s. 381.0072, F.S. that dispense potentially hazardous foods are also excluded from the definition.
[187] The term "kickboxing" means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. *See* s. 548.002(12), F.S.
[188] The term "mixed martial arts" means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. *See* s. 548.002(16), F.S.
[189] *See* s. 548.003(1), F.S.

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida[190] that involves a professional.[191] Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.[192] Chapter 548, F.S. does not apply to certain professional or amateur "martial arts," such as karate, aikido, judo, and kung fu; the term "martial arts" is distinct from and does not include "mixed martial arts."[193]

However, in regards to amateur matches, the commission's jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.[194] Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.[195] During Fiscal Year 2018-2019, of the 137 amateur events in Florida, the Division of Regulation in the DBPR conducted 35 checks for compliance with health and safety standards and proper supervision of the events.[196]

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Licensing is mandated for a participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician, matchmaker, or promoter.[197]

In Fiscal Year 2018-2019, the commission issued licenses to eight announcers and 11 timekeepers.[198]

Effect of Proposed Changes

Sections 91 and 92 of the bill amend ss. 548.003(2) and 548.017, F.S., respectively, to eliminate the licensure requirement for persons serving as timekeepers and announcers for a match involving a participant.

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[190] *See* s. 548.006(1), F.S.
[191] The term "professional" means a person who has "received or competed for a purse or other article of a value greater than $50, either for the expenses of training or for participating in a match. *See* s. 548.002(19), F.S.
[192] *See* s. 548.006(4), F.S.
[193] *See* s. 548.007(6), F.S., and *see supra* note 149 for the definition of "mixed martial arts."
[194] *See* s. 548.006(3), F.S.
[195] Section 548.002(2), F.S.
[196] *See* Department of Business and Professional Regulation, *Florida State Boxing Commission Annual Report, Fiscal Year 2017-2018, available at: http://www.myfloridalicense.com/dbpr/os/documents/Boxing18_19.pdf* at p. 6. (last visited on Feb. 4, 2020).
[197] The term "participant" means a professional competing in a boxing, kickboxing, or mixed martial arts match. *See* s. 548.002, F.S., for the definitions of "participant," "manager," "second," "judge," "physician," "matchmaker," and "promoter." The terms "trainer," "timekeeper," "referee," and "announcer" are not defined in ch. 548, F.S.
[198] *Supra*, note 156.

Florida Building Commission

Present Situation

In 2000, the Legislature authorized implementation of the first statewide Florida Building Code (code), which replaced all local building codes.[199]

The Florida Building Commission (Commission) was created to implement the code. The Commission, which is housed within the DBPR, is a 27-member technical body responsible for the development, maintenance, and interpretation of the code. The Commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate, and include design professionals, contractors, and government experts in the various disciplines covered by the code. Members, who must be able to do business in the state and must be actively engaged in the designated profession, include the following:[200]

- One architect;
- One structural engineer;
- One air-conditioning or mechanical contractor;
- One electrical contractor;
- One member from fire protection engineering or technology;
- One general contractor;
- One plumbing contractor;
- One roofing or sheet metal contractor;
- One residential contractor;
- Three members who are municipal or district code enforcement officials, one of whom is also a fire marshal;
- One member who represents the Department of Financial Services;
- One member who is a county codes enforcement official;
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in the state;
- One member of the manufactured buildings industry;
- One mechanical or electrical engineer;
- One member who is a representative of a municipality or a charter county;
- One member of the building products manufacturing industry;
- One member who is a representative of the commercial building owners and managers industry;
- One member who is a representative of the insurance industry;
- One member who is a representative of public education;
- One member who is a swimming pool contractor;
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED);

[199] Chapter 2000-141, Laws of Fla.
[200] Section 553.74, F.S.

- One member who is a representative of a natural gas distribution system;
- One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy; and
- One member who is the chair.[201]

The Commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.[202] The TACs are made up of commission members and other parties who advise the commission on declaratory statements, proposed amendments, and any other areas of interest of the commission.[203]

Effect of Proposed Changes

Section 94 of the bill amends s. 553.74, F.S., to reduce the number of members on the Commission from 27 members to 19 members. The bill:

- Requires the one architect member to be licensed pursuant to ch. 481, F.S., with at least 5 years of experience in the design and construction of buildings containing Code designated for Group E or Group I occupancies;[204]
- Allows a certified mechanical engineer or mechanical contractor as options in place of the member who is an air-conditioning contractor or mechanical contractor member to be a mechanical engineer.
- Allows the one electrical contractor member to be an electrical contractor or an electrical engineer and includes the Florida Engineering Society in the list of groups encouraged to recommend candidates for appointment;
- Allows the one general contractor member to be a certified general contractor or a certified building contractor;
- Allows the one general contractor member to be a certified general contractor or a certified building contractor, and includes the Florida Home Builders Association in the list of associations that are encouraged to recommend a candidate for consideration as the member representing the contractor profession; and
- Requires the one member representing a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in the state to be compliant with, or be certified compliant with, the requirements of the Americans with Disability Act of 1990, as amended.

The bill removes the following types of members from the current membership of the Commission:

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[201] The chair is appointed by the Governor.

[202] Department of Business and Professional Regulation, *Florida Building Code Online*, *available at:* https://www.floridabuilding.org/c/c_commission.aspx (last visited on Feb. 4, 2020).

[203] *Id*.

[204] Group E occupancy relates to buildings and structures or portions thereof occupied by more than five children older than two and one-half years of age who receive educational, supervision, or personal care services for fewer than 24 hours per day, such as daycare facilities. Group I occupancy relates to the use of a building or structure, or a portion thereof, in which care or supervision is provided to persons who are or are not capable of self-preservation without physical assistance, e.g., hospitals, nursing homes, and foster care facilities, or in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted, e.g., correctional institutions. See Chapter 3, 2017 Florida Building Code - Building, Sixth Edition, *available at:* https://up.codes/viewer/florida/fl-building-code-2017/chapter/3/use-and-occupancy-classification#308 (last visited Feb. 4, 2020).

- One member from fire protection engineering or technology;
- One member who represents the Department of Financial Services;
- One member who is a county codes enforcement official;
- One member who is a registered mechanical or electrical engineer;
- One member who is a representative of a municipality or charter county;
- One member who is a representative of public education;
- One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy; and
- One member who is solely the chair.

The amendments to the composition of the Florida Building Commission in s. 553.5141, F.S., take effect January 1, 2021.

Other Conforming Provisions

Section 97 amends s. 287.055, F.S., relating to the acquisition of professional services offered by "design-build firms" to state agencies, to delete the references to certified engineering and architectural business organizations, and to reference such business organizations as qualified rather than certified.

Effective Date

The bill provides an effective date of July 1, 2020, unless otherwise provided in the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill amends s. 481.203(13), F.S., to delete the licensure requirement in the definition of a "registered interior designer." Section 481.207, F.S., amends the maximum amount of the initial application and examination fee for registered interior designers from $775 to $75 and the biennial renewal fee from $500 to $75.[205] Since the definition of who is a registered interior designer has changed, this could be construed as a new fee for some

[205] Rule 61G1-17.002, F.A.C. The current application and initial licensure fee for interior designers is $30 and $100 for the biennial renewal fee.

individuals and a separate fee bill may be needed pursuant to Article VII, section 19 of the Florida Constitution.

To the extent the bill imposes a fee while addressing other subjects, the bill may be unconstitutional as a violation the single-subject requirement for the imposition, authorization, or raising of a state tax or fee under Article VII, section 19 of the Florida Constitution. Under that section, a "state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject." A "fee" is defined by the Florida Constitution to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."[206]

E. Other Constitutional Issues:

The bill amends s. 481.203(13), F.S., to delete the licensure requirement in the definition of a "registered interior designer." Section 481.207, F.S., amends the maximum amount of the initial application and examination fee for registered interior designers from $775 to $75 and the biennial renewal fee from $500 to $75.[207] Since the definition of who is a registered interior designer has changed, this could be construed as a new fee for some individuals and a separate fee bill may be needed pursuant to Article VII, Section 19 of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

According to the Department of Business and Professional Regulation (DBPR), the bill would result in a reduction of license fees, license renewal fees, and unlicensed activity fees paid by the private sector to the Division of Professions of approximately $1,146,785 in Fiscal Year 2020-2021, $411,268 in Fiscal Year 2021-2022, and $1,282,485 in Fiscal Year 2022-2023.[208]

The fees received from the licensure of business agents and labor organizations will be eliminated, reducing expenditures by approximately $830 annually.[209]

The Division of Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers) of the DBPR estimates that the bill will result in a reduction of license and license renewal fees paid by the private sector of approximately $5,900 in Fiscal Year 2020-2021, $7,500 in Fiscal Year 2021-2022, and $9,100 in Fiscal Year 2022-2023.[210]

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[206] FLA. CONST. art. VII, s. 19(d)(1)
[207] Rule 61G1-17.002, F.A.C. The current application and initial licensure fee for interior designers is $30 and $100 for the biennial renewal fee.
[208] E-mail from Colton Madill, Deputy Legislative Affairs Director, Florida Department of Business and Professional Regulation (Feb. 21, 2020) (on file with the Senate Committee on Appropriations).
[209] *Id.*
[210] *Id*.

The DBPR estimates that the bill will result in a reduction of license and license renewal fees paid by the private sector to the Florida State Boxing Commission of approximately $1,000 annually.[211]

B. Private Sector Impact:

The bill has an indeterminate positive fiscal impact for the private sector. The bill provides for the portability of Florida licensure by requiring reciprocity with states with similar requirements. The impact will vary, depending on how many licensees are provided licensure through reciprocity.

The bill has a positive fiscal impact on fees paid by the private sector. Over the next three fiscal years (Fiscal Year 2020-2021 to Fiscal Year 2022-2023), the estimated reduction totals $2,868,528 as follows:[212]

Professions: A reduction in license fees, license renewal fees, and unlicensed activity fees of approximately $1,146,785 in Fiscal Year 2020-2021, $411,268 in Fiscal Year 2021-2022, and $1,282,485 in Fiscal Year 2022-2023.

The fees received from the licensure of business agents and labor organizations will be eliminated, reducing expenditures by approximately $830 annually.[213]

Condominiums: (Yacht and Ship Brokers) A reduction of approximately $5,900 in Fiscal Year 2020-2021, $7,500 in Fiscal Year 2021-2022, and $9,100 in Fiscal Year 2022-2023.

Boxing Commission: A reduction of approximately $1,000 annually.

Specifically, the bill:

- Eliminates license or registration costs for hair braiders, hair wrappers, body wrappers, labor organizations, and boxing timekeepers and announcers. The bill also increases from $1,000 to $2,500 the minimum cost of labor and materials for a construction handymen to qualify for the exemption from licensure requirements.
- Eliminates business license costs for architects and interior designers, and landscape architects.
- Eliminates the requirement that yacht and ship brokers must have a separate license for each branch office.
- Eliminates mandatory licensing costs for interior designers who provide interior design services for commercial applications.
- Reduces pre-licensure and continuing education costs for architects, barbers, cosmetologists, nail specialists, facial specialists, full specialists, and electrical and alarm contractors. The DBPR states the specific pre-licensure and continuing

[211] *Id*.
[212] *Id*.
[213] *Id.*

education cost savings to these licensees are difficult to determine, but anticipates costs to be reduced by one-third to one-half of current fees.

C. Government Sector Impact:

According to the DBPR, the elimination of professional licensing requirements contained in CS/CS/CS/SB 474 is anticipated to reduce state government revenues by $2,868,528 over the next three fiscal years (Fiscal Year 2020-2021 to Fiscal Year 2022-2023).[214] Specifically:[215]

- Professions: a reduction of license fees, license renewal fees and unlicensed activity fees of approximately $1,146,785 in Fiscal Year 2020-2021, $411,268 in Fiscal Year 2021-2022, and $1,282,485 in Fiscal Year 2022-2023.
- Regulation: the business agent and labor organization license fee reduction is anticipated to be $830 annually.
- Boxing Commission: a revenue reduction of approximately $1,000 annually.
- Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers): Revenue reduction of approximately $5,900 in Fiscal Year 2020-2021, $7,500 in Fiscal Year 2021-2022, and $9,100 in Fiscal Year 2022-2023.[216]

According to the DBPR, the elimination of the business and individual license and renewal costs for interior designers will result in a reduction of $439,775 in FY 2020-2021, $5,390 in FY 2021-2022, and $455,945 in FY 2022-2023. However, the increase of revenue as a result of the new fees for a certificate of registration to practice interior design and biennial renewals are estimated to be $249,725 in FY 2020-2021, $3,325 in FY 2021-2022, and $257,325 in FY 2022-2023. The net of the revenue reduction is included in the total state government revenue reductions for professions listed above.

As a result of the revenue reduction, there will be a reduction in the eight percent service charge to General Revenue of approximately $92,361 in Fiscal Year 2020-2021, $33,648 in Fiscal Year 2021-2022, and $103,473 in Fiscal Year 2022-2023.

The bill will result in a reduction of expenditures related to the reduced workload because of the deregulation of entities currently regulated by the DBPR in an amount of $89,620 over the next three fiscal years ($28,240 in FY 2020-2021, $30,440 in FY 2021-2022, and $30,940 in FY 2022-2023).[217]

The Bureau of Education and Testing (Bureau) in the DBPR also indicates that the bill will have a minimal impact on its workload, although some examination content may require updating; such updating is a part of the Bureau's standard procedure to address statutory changes.[218]

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[214] *Id*.
[215] *Id.*
[216] *Id.*
[217] E-mail from Colton Madill, Deputy Legislative Affairs Director, Florida Department of Business and Professional Regulation (Feb. 17, 2020) (on file with the Senate Committee on Appropriations).
[218] *See* Department of Business and Professional Regulation, *SB 474, 2020 Agency Legislative Bill Analysis,* p. 14 (Nov. 4, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

VI. Technical Deficiencies:

None.

VII. Related Issues:

Student Loan Defaults

The bill amends ss. 456.072 and 456.074, F.S., and repeals s. 456.0721, F.S., to remove the authority of the Department of Health (DOH) to take disciplinary action against a health care practitioner who is in default on a student loan guaranteed by the state or federal government. However, the bill may not remove all the DOH requirements relating to student loan default, specifically relating to initial award or renewal of a license. The DOH, or a licensing board within the jurisdiction of the DOH, must refuse to issue or renew a license to an individual that is currently listed on the USDHHS Office of Inspector General's List of Excluded Individuals and Entities (LEIE).[219] Federal law[220] provides that a default on a health education loan or scholarship obligation is permissive grounds for being placed on the LEIE and that such exclusion lasts until the default or obligation is resolved. If a candidate or applicant is placed on the LEIE for a default on such a loan, the DOH must deny that person's application for an initial license or renewal of an existing license.[221]

Talent Agents

The bill amends part VII of ch. 468, F.S., to repeal the license requirements for talent agencies. The bill retains several requirements for the conduct of talent agencies, including the requirement to obtain a $5,000 bond a surety bond in s. 468.408(1), F.S. The bill requires that a bond may not be issued or renewed to a talent agent or agency by a bonding agency unless each owner or operator of the talent agency submits fingerprints to the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigations (FBI) for a criminal background check. A bonding agency may not issue or renew a bond to a talent agent who is registered as a sexual offender.

The FDLE has advised that owners and operators of talent agencies are not a regulatory agency and are unable to submit fingerprints to FDLE for a state and national criminal history record check. Under Public Law 92-544, the FBI is authorized to conduct a criminal record check for a noncriminal justice licensing or employment purpose, if authorized by a state statute which has been approved by the Attorney General of the United States.[222] According to the FDLE,[223] the following standards employed by the FBI in approving Public Law 92-544 authorizations have

[219] Section 456.0635(2)(e) and (3)(e), F.S. The LEIE provides information to the health care industry, patients and the public regarding individuals and entities currently excluded from participation in Medicare, Medicaid and all other Federal health care programs. USDHHS, Office of Inspector General, *Exclusions FAQ*, https://oig.hhs.gov/faqs/exclusions-faq.asp, (last visited Feb. 3, 2019). Individuals must be excluded (placed on the LEIE) for a conviction of specified crimes, including patient abuse, fraud, or actions related to a controlled substance. Individuals may be placed on the LEIE for acts including convictions relating to audits, specified misdemeanors, claims of unnecessary services, kickbacks, or default on health education loans or scholarship obligations. 42 U.S.C. s. 1320a-7.
[220] Section 1128(b)(14) of the Social Security Act and 42 U.S.C. 1320a-7(b)(14).
[221] Florida Department of Health, *2019 Agency Analysis of SB 356* (Oct. 31, 2019).
[222] 28 C.F.R. s. 0.85(j) and 28 C.F.R. s. 50.12.
[223] Email from Bobbie Smith, Legislative Analyst, Office of External Affairs, Florida Department of Law Enforcement (Feb. 20, 2020) (on file with the Senate Committee on Appropriations).

been established by a series of memoranda issued by the Office of Legal Counsel, Department of Justice:[224]

- The authorization must exist as the result of legislative enactment (or its functional equivalent);
- The authorization must require fingerprinting of the applicant;
- The authorization must, expressly or by implication, authorize use of FBI records for screening of the applicant;
- The authorization must not be against public policy; and
- The authorization must not be overly broad in its scope; it must identify the specific category of applicants/licensees.

Fingerprint card submissions to the FBI under Public Law 92-544 must be forwarded through the State Identification Bureau (the FDLE). The state must also designate an authorized governmental agency to be responsible for receiving and screening the results of the record check to determine an applicant's suitability for employment or licensing.

The requirement that a talent agent to submit fingerprints as a condition of the bond requirement, may serve as a bar to practicing as a talent agent in Florida because persons desiring to so practice as a talent agent will not be able to satisfy the fingerprinting and background check requirements in the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.165, 287.055, 322.57, 326.004, 447.02, 447.09, 447.305, 455.213, 456.072, 456.074, 468.385, 468.401, 468.406, 468.408, 468.409, 468.410, 468.412, 468.413, 468.415, 468.505, 468.524, 468.603, 468.609, 468.613, 468.8314, 471.015, 473.308, 474.202, 474.207, 474.217, 476.114, 476.144, 477.013, 477.0135, 477.019, 477.0201, 477.026, 477.0263, 477.0265, 477.029, 481.201, 481.203, 481.205, 481.207, 481.209, 481.213, 481.2131, 481.215, 481.217, 481.219, 481.221, 481.223, 481.2251, 481.229, 481.231, 481.303, 481.310, 481.311, 481.313, 481.317, 481.319, 481.321, 481.329, 489.103, 489.111, 489.113, 489.115, 489.511, 489.517, 489.518, 548.003, 492.104, 492.108, 492.111, 492.113, 492.115, 548.003 548.017, 553.5141, 553.74, 558.002, 559.25, and 823.15.

This bill repeals the following sections of the Florida Statutes: 447.04, 447.041, 447.045, 447.06, 447.12, 447.16, 456.0721, 477.0132, 468.402, 468.403, 468.404, 468.405, 468.507, and 468.414.

This bill creates the following sections of the Florida Statutes: 455.2278 and 509.102.

[224] See also 28 C.F.R. part 20, dealing with the regulations relating to criminal history record information.

IX. Additional Information:

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

CS/CS/CS by Appropriations on February 20, 2020:
The committee substitute:

- Prohibits the DBPR from suspending or revoking a license because of a default on a student loan or failure to satisfy the requirements of a work-conditional scholarship.
- Repeals licensing requirements for talent agents and requires talent agents to obtain a bond after submitting fingerprints to the FDLE for a criminal background check, and prohibits the bonding agency from issuing a bond to a talent agent who is registered as a sexual offender.
- Exempts from the requirement to be licensed as a dietitian or nutritionist persons who provides information and do not represent themselves as a dietitian or nutritionist or as a licensed or registered dietitian or nutritionist.
- For employee leasing companies, repeals the requirement for a criminal background check and moral character license requirements for an employee leasing company and the person controlling the company, and removes the one-year time restriction for reapplication after a license is denied, but retains the time restriction for licensees who had their license revoked.
- Reduces the education and experience requirements for building code inspectors and plans examiners.
- Provides an effective date of January 1, 2021, for the provision in the bill reducing the minimum number of hours of training required for barber licensure from 1200 hours to 900 hours.
- Exempts from cosmetology license or registration requirements a person whose occupation or practice is limited to specified makeup removal activities.
- Removes from the bill the requirement that an applicant for a cosmetology license by endorsement must complete a two-hour course on HIV and AIDS.
- Provides an effective date of January 1, 2021, for the training requirements in the bill to register as a nail, facial, or nail and facial specialist.
- Permits a person licensed as an interior designer and in good standing as of July 1, 2020, to obtain a certificate of registration as a registered interior designer.
- Requires an applicant for licensure by endorsement complete a two-hour class approved by the Board of Architecture and Interior Design (BAID) on the Florida Building Code.
- Requires registered interior designers to complete two hours in specialized or advanced courses on any portion of the Florida Building Code, and provides that such hours count towards the continuing education requirement. (The bill only references architects.)
- Exempts a person with a four-year BA degree in building construction and a GPA of 3.5 or higher from the requirement to pass a construction contractor's license examination.
- Requires an applicant for licensure by endorsement for a Division I or a roofing contractor's license to complete a two-hour course in the Florida Building Code which includes information on wind mitigation techniques. (This provision is in place

of a provision in CS/CS/SB 474 requiring an applicant by endorsement to complete a four-hour continuing education course on the Florida Building Code, as well as a one hour course on the laws and rules of contracting in Florida.)

- Requires an applicant for licensure by endorsement for an electrical contractor's license to complete a two-hour course in the Florida Building Code which includes information on wind mitigation techniques. (This provision is in place of a provision in CS/CS/SB 474 requiring an applicant by endorsement to complete a four-hour continuing education course on the Florida Building Code, as well as a one-hour course on the laws and rules of contracting in Florida.)
- Authorizes employees, agents, or contractors of qualifying public or private animal shelters, humane organizations, or animal control agencies to contact the cat or dog owner of record to verify ownership.
- Repeals the requirement that a geologist firm, corporation, or partnership obtain a separate license to operate.
- Permits a person to qualify for a geologist license by endorsement if the person has held a valid license to practice geology in another state, trust, territory, or possession of the United States for at least 10 years before the date of application, has successfully completed one of the specified examinations, and has been licensed in the other jurisdiction, and the application is made when the applicant's license in another state or territory is active, or within two years of when such license was last active.

CS/CS by Commerce and Tourism on February 5, 2020:

The committee substitute:

- Adds "makeup application" to the list of activities that may be performed in a location other than a licensed salon when the service is performed by a person who holds the proper license;
- Authorizes landscape architects to receive hour-for-hour credit for certain approved continuing education courses;
- Provides that the board may establish fees for architects and registered interior designers in s. 481.207, F.S.;
- Deletes s. 481.207(2), F.S., and moves the relevant fees from that provision into s. 481.207(1), F.S.
- Establishes that each certificate holder or registrant licensed as a specialty contractor or alarm system contractor must prove they have completed at least 7 classroom hours of continuing education courses;
- Adds a requirement that each certificateholder or registrant licensed as an electrical contractor must provide proof that they have completed 11 classroom hours of at least 50 minutes each of continuing education every 2 years since the issuance or renewal of the certificate of registration;
- Gives the Electrical Contractors' Licensing Board the authority to establish criteria for continuing education requirements;
- Provides that for licensed specialty contractors or alarm system contractors, of the required 7 classroom hours of continuing education, at least 1 hour must be on technical subjects, 1 hour must be on workers' compensation, 1 hour must be on

workplace safety, 1 hour must be on business practices, and 2 hours must be on false alarm prevention;
- Provides that for licensed electrical contractors, of the required 11 classroom hours of continuing education, at least 7 hours must be on technical subjects, 1 hour must be on workers' compensation, 1 hour must be on workplace safety, and 1 hour must be on business practices;
- Provides that electrical contractors engaged in alarm system contracting must also complete 2 hours on false alarm prevention;
- Authorizes employees, agents, or contractors of qualifying public or private animal shelters, a humane organizations, or animal control agencies to implant cats and dogs with specified microchips;
- Requires that architects complete 2 hours in specialized or advanced courses on any portion of the Florida Building Code, and provides that such hours count towards the continuing education requirement;
- Clarifies that a municipality, county, or other local government entity's authority to regulate mobile food dispensing vehicles is only limited by s. 509.102(2).
- Adds a requirement under s. 489.115, F.S., that within 30 days after receiving a license, the licensee is required to complete an approved 4 hour continuing education course on the Florida Building Code, as well as a 1 hour course on the laws and rules of contracting in Florida; and
- Adds a requirement under s. 489.511, F.S., that within 30 days after receiving a license, the licensee is required to complete an approved 4 hour continuing education course on the Florida Building Code, as well as a 1 hour course on the laws and rules of electrical and alarm system contracting in Florida.

CS by Innovation, Industry, and Technology on January 21, 2020:
The committee substitute:
- Amends s. 322.57, F.S., to waive the requirement to pass the commercial driver license skills test for military service members and veterans with specified training and experience.
- Does not amend ss. 469.006 and 469.009, F.S., to revise provisions related to asbestos abatement business licenses.
- Revises the amendment to s. 477.0135, F.S., to remove persons whose occupation or practice is confined solely to makeup application from the list of persons who are exempt from license and specialty registration requirements.
- Revises the minimum training hours in s. 477.0201(1), F.S., for cosmetology specialists.
- Does not amend s. 481.205, F.S., to revise the membership of the Board of Architecture and Interior Design.
- Amends ch. 481, F.S., to provide for a voluntary certificate or registration to practice interior design in place of the current license requirement and to impose a nonrefundable fee not to exceed $75 for a certificate of registration for interior designers and its renewal.
- Revises the qualifications for a registered interior designer, the board's authority to prescribe the form of seals, requirements related to the use of seals by registered

interior designers, and applicable discipline, including fines, and disciplinary grounds for registered interior designers.

- Amends s. 489.517, F.S., to revise the minimum continuing education hours for electrical contractors.
- Creates s. 509.102, F.S, to preempt the regulation of mobile food dispensing vehicles to the state, prohibit local governments from requiring a license, registration, or permit, and prohibit local governments from prohibiting the operation of food trucks.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
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The Committee on Appropriations (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete lines 290 - 2102
and insert:
Section 14. Section 455.2278, Florida Statutes, is created to read:
455.2278 Restriction on disciplinary action for student loan default.—
(1) DEFINITIONS.—As used in this section, the term:
(a) "Default" means the failure to repay a student loan

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according to the terms agreed to in the promissory note.

(b) "Delinquency" means the failure to make a student loan payment when it is due.

(c) "Student loan" means a federal-guaranteed or state-guaranteed loan for the purposes of postsecondary education.

(d) "Work-conditional scholarship" means an award of financial aid for a student to further his or her education which imposes an obligation on the student to complete certain work-related requirements to receive or to continue receiving the scholarship.

(2) STUDENT LOAN DEFAULT; DELINQUENCY.—The department or a board may not suspend or revoke a license that it has issued to any person who is in default on or delinquent in the payment of his or her student loans solely on the basis of such default or delinquency.

(3) WORK-CONDITIONAL SCHOLARSHIP DEFAULT.—The department or a board may not suspend or revoke a license that it has issued to any person who is in default on the satisfaction of the requirements of his or her work-conditional scholarship solely on the basis of such default.

Section 15. Paragraph (k) of subsection (1) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the

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Federal Government in accordance with the terms of the loan is not ~~or failing to comply with service scholarship obligations shall be~~ considered a failure to perform a statutory or legal obligation~~, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount~~. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

Section 16. Section 456.0721, Florida Statutes, is repealed.

Section 17. Subsection (4) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

~~(4) Upon receipt of information that a Florida-licensed health care practitioner has defaulted on a student loan issued or guaranteed by the state or the Federal Government, the department shall notify the licensee by certified mail that he or she shall be subject to immediate suspension of license unless, within 45 days after the date of mailing, the licensee provides proof that new payment terms have been agreed upon by all parties to the loan. The department shall issue an emergency order suspending the license of any licensee who, after 45 days following the date of mailing from the department, has failed to provide such proof. Production of such proof shall not prohibit the department from proceeding with disciplinary action against the licensee pursuant to s. 456.073.~~

Section 18. Paragraph (b) of subsection (7) of section 468.385, Florida Statutes, is amended to read:

468.385 Licenses required; qualifications; examination.—

(7)

(b) A ~~No~~ business may not ~~shall~~ auction or offer to auction any property in this state unless it is owned by an auctioneer who is licensed ~~as an auction business~~ by the department ~~board~~ or is exempt from licensure under this act. Each application for licensure must ~~shall~~ include the names of the owner and the business, the business mailing address and location, and any other information which the board may require. The owner of an auction business shall report to the board within 30 days of any change in this required information.

Section 19. Section 468.401, Florida Statutes, is amended to read:

468.401 ~~Regulation of~~ Talent agencies; definitions.—As used in this part, the term ~~or any rule adopted pursuant hereto~~:

(8)~~(1)~~ "Talent agency" means any person who, for compensation, engages in the occupation or business of procuring or attempting to procure engagements for an artist.

(6)~~(2)~~ "Owner" means any partner in a partnership, member of a firm, or principal officer or officers of a corporation, whose partnership, firm, or corporation owns a talent agency, or any individual who is the sole owner of a talent agency.

(3) "Compensation" means any one or more of the following:

(a) Any money or other valuable consideration paid or promised to be paid for services rendered by any person conducting the business of a talent agency under this part;

(b) Any money received by any person in excess of that

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which has been paid out by such person for transportation, transfer of baggage, or board and lodging for any applicant for employment; or

(c) The difference between the amount of money received by any person who furnishes employees, performers, or entertainers for circus, vaudeville, theatrical, or other entertainments, exhibitions, engagements, or performances and the amount paid by him or her to such employee, performer, or entertainer.

(4) "Engagement" means any employment or placement of an artist, where the artist performs in his or her artistic capacity. However, the term "engagement" shall not apply to procuring opera, music, theater, or dance engagements for any organization defined in s. 501(c)(3) of the Internal Revenue Code or any nonprofit Florida arts organization that has received a grant from the Division of Cultural Affairs of the Department of State or has participated in the state touring program of the Division of Cultural Affairs.

~~(5) "Department" means the Department of Business and Professional Regulation.~~

(5)~~(6)~~ "Operator" means the person who is or who will be in actual charge of a talent agency.

(2)~~(7)~~ "Buyer" or "employer" means a person, company, partnership, or corporation that uses the services of a talent agency to provide artists.

(1)~~(8)~~ "Artist" means a person performing on the professional stage or in the production of television, radio, or motion pictures; a musician or group of musicians; or a model.

(7)~~(9)~~ "Person" means any individual, company, society, firm, partnership, association, corporation, manager, or any

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agent or employee of any of the foregoing.

~~(10) "License" means a license issued by the Department of Business and Professional Regulation to carry on the business of a talent agency under this part.~~

~~(11) "Licensee" means a talent agency which holds a valid unrevoked and unforfeited license issued under this part.~~

Section 20. Section 468.402, Florida Statutes, is repealed.

Section 21. Section 468.403, Florida Statutes, is repealed.

Section 22. Section 468.404, Florida Statutes, is repealed.

Section 23. Section 468.405, Florida Statutes, is repealed.

Section 24. Subsection (1) of section 468.406, Florida Statutes, is amended to read:

468.406 Fees to be charged by talent agencies; rates; display.—

(1) Each owner or operator of a talent agency shall post in a conspicuous place in each place of business of the agency ~~applicant for a license shall file with the application~~ an itemized schedule of maximum fees, charges, and commissions that ~~which~~ it intends to charge and collect for ~~its~~ services. The ~~This~~ schedule ~~may thereafter be raised only by filing with the department an amended or supplemental schedule at least 30 days before the change is to become effective. The schedule shall be posted in a conspicuous place in each place of business of the agency and~~ shall be printed in not less than a 30-point boldfaced type, except that an agency that uses written contracts containing maximum fee schedules need not post such schedules.

Section 25. Section 468.407, Florida Statutes, is repealed.

Section 26. Subsection (1) of section 468.408, Florida


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Statutes, is amended to read:

468.408 Bond required.—

(1) An owner or operator of a ~~There shall be filed with the department for each~~ talent agency shall obtain ~~license~~ a bond in the form of a surety by a reputable company engaged in the bonding business and authorized to do business in this state. The bond shall be for the penal sum of $5,000, with one or more sureties ~~to be approved by the department~~, and be conditioned that the owner or operator of the talent agency ~~applicant~~ conform to and not violate any of the duties, terms, conditions, provisions, or requirements of this part. Such bond may not be issued or renewed by the bonding agency unless each owner or operator of a talent agency submits fingerprints to the Department of Law Enforcement for a state criminal history record check and to the Federal Bureau of Investigation for a national criminal history record check, and the bonding agency verifies by examination of the criminal history records checks that each owner or operator has not been convicted of a crime that would require registration as a sexual offender, as required in s. 943.0435 or s. 944.607, or as a sexual predator, as required under s. 775.21.

(a) If any person is aggrieved by the misconduct of any talent agency, the person may maintain an action in his or her own name upon the bond of the agency in any court having jurisdiction of the amount claimed. All such claims shall be assignable, and the assignee shall be entitled to the same remedies, upon the bond of the agency or otherwise, as the person aggrieved would have been entitled to if such claim had not been assigned. Any claim or claims so assigned may be


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enforced in the name of such assignee.

(b) The bonding company shall notify the talent agency ~~department~~ of any claim against such bond, and a copy of such notice shall be sent to the talent agency against which the claim is made.

Section 27. Section 468.409, Florida Statutes, is amended to read:

468.409 Records required to be kept.—Each talent agency shall keep on file the application, registration, or contract of each artist. In addition, such file must include the name and address of each artist, the amount of the compensation received, and all attempts to procure engagements for the artist. No such agency or employee thereof shall knowingly make any false entry in applicant files or receipt files. Each card or document in such files shall be preserved for a period of 1 year after the date of the last entry thereon. ~~Records required under this section shall be readily available for inspection by the department during reasonable business hours at the talent agency's principal office. A talent agency must provide the department with true copies of the records in the manner prescribed by the department.~~

Section 28. Subsection (3) of section 468.410, Florida Statutes, is amended to read:

468.410 Prohibition against registration fees; referral.—

(3) A talent agency shall give each applicant a copy of a contract, within 24 hours after the contract's execution, which lists the services to be provided and the fees to be charged. ~~The contract shall state that the talent agency is regulated by the department and shall list the address and telephone number~~


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~~of the department.~~

Section 29. Present subsections (4) through (11) of section 468.412, Florida Statutes, are redesignated as subsections (3) through (10), respectively, and present subsections (2), (3), (4), (6), and (11) of that section are amended to read:

468.412 Talent agency regulations; prohibited acts.—

(2) Each talent agency shall keep records in which shall be entered:

(a) The name and address of each artist employing such talent agency.~~;~~

(b) The amount of fees received from each such artist.~~;~~

(c) The employment in which each such artist is engaged at the time of employing such talent agency and the amount of compensation of the artist in such employment, if any, and the employments subsequently secured by such artist during the term of the contract between the artist and the talent agency and the amount of compensation received by the artist pursuant thereto.~~;~~ ~~and~~

~~(d) Other information which the department may require from time to time.~~

~~(3) All books, records, and other papers kept pursuant to this act by any talent agency shall be open at all reasonable hours to the inspection of the department and its agents. Each talent agency shall furnish to the department, upon request, a true copy of such books, records, and papers, or any portion thereof, and shall make such reports as the department may prescribe from time to time.~~

(3)~~(4)~~ Each talent agency shall post in a conspicuous place in the office of such talent agency a printed copy of this part


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~~and of the rules adopted under this part~~. ~~Such copies shall also contain the name and address of the officer charged with enforcing this part. The department shall furnish to talent agencies printed copies of any statute or rule required to be posted under this subsection.~~

(5)~~(6)~~ A ~~No~~ talent agency may not publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. All advertisements of a talent agency by means of card, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the ~~licensed~~ name~~, department license number,~~ and address of the talent agency and the words "talent agency." A ~~No~~ talent agency may not give any false information or make any false promises or representations concerning an engagement or employment to any applicant who applies for an engagement or employment.

(10)~~(11)~~ A talent agency may assign an engagement contract to another talent agency ~~licensed~~ in this state only if the artist agrees in writing to the assignment. The assignment must occur, and written notice of the assignment must be given to the artist, within 30 days after the artist agrees in writing to the assignment.

Section 30. Section 468.413, Florida Statutes, is amended to read:

468.413 Legal requirements; penalties.—

~~(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:~~

~~(a) Owning or operating, or soliciting business as, a~~


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~~talent agency in this state without first procuring a license from the department.~~

~~(b) Obtaining or attempting to obtain a license by means of fraud, misrepresentation, or concealment.~~

(1)~~(2)~~ Each of the following acts constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

~~(a) Relocating a business as a talent agency, or operating under any name other than that designated on the license, unless written notification is given to the department and to the surety or sureties on the original bond, and unless the license is returned to the department for the recording thereon of such changes.~~

~~(b) Assigning or attempting to assign a license issued under this part.~~

~~(c) Failing to show on a license application whether or not the agency or any owner of the agency is financially interested in any other business of like nature and, if so, failing to specify such interest or interests.~~

(a)~~(d)~~ Failing to maintain the records required by s. 468.409 or knowingly making false entries in such records.

(b)~~(e)~~ Requiring as a condition to registering or obtaining employment or placement for any applicant that the applicant subscribe to, purchase, or attend any publication, postcard service, advertisement, resume service, photography service, school, acting school, workshop, or acting workshop.

(c)~~(f)~~ Failing to give each applicant a copy of a contract which lists the services to be provided and the fees to be charged by~~, which states that~~ the talent agency ~~is regulated by~~


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~~the department, and which lists the address and telephone number of the department~~.

(d)~~(g)~~ Failing to maintain a record sheet as required by s. 468.412(1).

(e)~~(h)~~ Knowingly sending or causing to be sent any artist to a prospective employer or place of business, the character or operation of which employer or place of business the talent agency knows to be in violation of the laws of the United States or of this state.

~~(3) The court may, in addition to other punishment provided for in subsection (2), suspend or revoke the license of any licensee under this part who has been found guilty of any misdemeanor listed in subsection (2).~~

(2)~~(4)~~ In the event that ~~the department or~~ any state attorney shall have probable cause to believe that a talent agency or other person has violated any provision of subsection (1), an action may be brought by ~~the department or~~ any state attorney to enjoin such talent agency or any person from continuing such violation, or engaging therein or doing any acts in furtherance thereof, and for such other relief as to the court seems appropriate. ~~In addition to this remedy, the department may assess a penalty against any talent agency or any person in an amount not to exceed $5,000.~~

Section 31. Section 468.414, Florida Statutes, is repealed.

Section 32. Section 468.415, Florida Statutes, is amended to read:

468.415 Sexual misconduct in the operation of a talent agency.—The talent agent-artist relationship is founded on mutual trust. Sexual misconduct in the operation of a talent

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agency means violation of the talent agent-artist relationship through which the talent agent uses the relationship to induce or attempt to induce the artist to engage or attempt to engage in sexual activity. Sexual misconduct is prohibited in the operation of a talent agency. ~~If~~ Any agent, owner, or operator of a ~~licensed~~ talent agency who commits ~~is found to have committed~~ sexual misconduct in the operation of a talent agency~~, the agency license shall be permanently revoked. Such agent, owner, or operator~~ shall be permanently prohibited from acting ~~disqualified from present and future licensure~~ as an agent, owner, or operator of a Florida talent agency.

Section 33. Paragraph (n) is added to subsection (1) of section 468.505, Florida Statutes, to read:

468.505 Exemptions; exceptions.—

(1) Nothing in this part may be construed as prohibiting or restricting the practice, services, or activities of:

(n) A person who provides information, recommendations, or advice concerning nutrition, or who markets food, food materials, or dietary supplements for remuneration, if that person does not represent himself or herself as a dietitian, licensed dietitian, registered dietitian, licensed nutritionist, nutrition counselor, or licensed nutrition counselor, or use any word, letter, symbol, or insignia indicating or implying that he or she is a dietitian, nutritionist, or nutrition counselor.

Section 34. Subsection (4) of section 468.524, Florida Statutes, is amended to read:

468.524 Application for license.—

(4) A ~~An applicant or~~ licensee is ineligible to reapply for a license for a period of 1 year following final agency action

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on the ~~denial or~~ revocation of a license ~~applied for or~~ issued under this part. This time restriction does not apply to administrative ~~denials or~~ revocations entered because:

(a) The ~~applicant or~~ licensee has made an inadvertent error or omission on the application;

(b) The experience documented to the board was insufficient at the time of the previous application; or

~~(c) The department is unable to complete the criminal background investigation because of insufficient information from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency;~~

(c)~~(d)~~ The ~~applicant or~~ licensee has failed to submit required fees.~~; or~~

~~(e) An applicant or licensed employee leasing company has been deemed ineligible for a license because of the lack of good moral character of an individual or individuals when such individual or individuals are no longer employed in a capacity that would require their licensing under this part.~~

Section 35. Paragraph (f) of subsection (5) of section 468.603, Florida Statutes, is amended to read:

468.603 Definitions.—As used in this part:

(5) "Categories of building code inspectors" include the following:

(f) "Residential ~~One and two family dwelling~~ inspector" means a person who is qualified to inspect and determine that one-family, two-family, or three-family residences not exceeding two habitable stories above no more than one uninhabitable story and accessory use structures in connection therewith ~~one and two~~


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~~family dwellings and accessory structures~~ are constructed in accordance with the provisions of the governing building, plumbing, mechanical, accessibility, and electrical codes.

Section 36. Paragraph (c) of subsection (2) and paragraph (a) of subsection (7) of section 468.609, Florida Statutes, are amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(2) A person may take the examination for certification as a building code inspector or plans examiner pursuant to this part if the person:

(c) Meets eligibility requirements according to one of the following criteria:

1. Demonstrates 4 ~~5~~ years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought;

2. Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 3 ~~4~~ years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

3. Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 3 ~~4~~ years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

4. Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to chapter 633, has a minimum of 3 years' verifiable full-time


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experience in inspection or plan review, and has satisfactorily completed a building code inspector or plans examiner training program that provides at least 100 hours but not more than 200 hours of cross-training in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs. The board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program;

5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector certified under s. 633.216, or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program that provides at least 200 hours but not more than 300 hours of cross-training that is approved by the board in the chosen category of building code inspection or plan review in the certification category sought with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program. However, the board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom

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component of the training program;

6. Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to chapter 633 and:

a. Has at least 4 ~~5~~ years' verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of 4 ~~5~~ years' verifiable full-time experience as a firesafety inspector licensed pursuant to chapter 633.

b. Has satisfactorily completed a building code inspector or plans examiner classroom training course or program that provides at least 200 but not more than 300 hours in the certification category sought, except for one-family and two-family dwelling training programs, which must provide at least 500 but not more than 800 hours of training as prescribed by the board. The board shall establish by rule criteria for the development and implementation of classroom training courses and programs in each certification category; or

7.a. Has completed a 4-year internship certification program as a building code inspector or plans examiner while employed full-time by a municipality, county, or other governmental jurisdiction, under the direct supervision of a certified building official. Proof of graduation with a related vocational degree or college degree or of verifiable work experience may be exchanged for the internship experience requirement year-for-year, but may reduce the requirement to no less than 1 year.

b. Has passed an examination administered by the International Code Council in the certification category sought.


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Such examination must be passed before beginning the internship certification program.

c. Has passed the principles and practice examination before completing the internship certification program.

d. Has passed a board-approved 40-hour code training course in the certification category sought before completing the internship certification program.

e. Has obtained a favorable recommendation from the supervising building official after completion of the internship certification program.

(7)(a) The board shall provide for the issuance of provisional certificates valid for 2 years ~~1 year~~, as specified by board rule, to any building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3). The provisional license may be renewed by the board for just cause; however, a provisional license is not valid for longer than 3 years.

Section 37. Section 468.613, Florida Statutes, is amended to read:

468.613 Certification by endorsement.—The board shall examine other certification or training programs, as applicable, upon submission to the board for its consideration of an application for certification by endorsement. The board shall waive its examination, qualification, education, or training requirements, to the extent that such examination, qualification, education, or training requirements of the applicant are determined by the board to be comparable with


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those established by the board. The board shall waive its examination, qualification, education, or training requirements if an applicant for certification by endorsement is at least 18 years of age; is of good moral character; has held a valid building administrator, inspector, plans examiner, or the equivalent, certification issued by another state or territory of the United States for at least 10 years before the date of application; and has successfully passed an applicable examination administered by the International Code Council. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active.

Section 38. Subsection (3) of section 468.8314, Florida Statutes, is amended to read:

468.8314 Licensure.—

(3) The department shall certify as qualified for a license by endorsement an applicant who is of good moral character as determined in s. 468.8313, who maintains an insurance policy as required by s. 468.8322, and who:~~,~~

(a) Holds a valid license to practice home inspection services in another state or territory of the United States, whose educational requirements are substantially equivalent to those required by this part; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by this part; or

(b) Has held a valid license to practice home inspection services issued by another state or territory of the United States for at least 10 years before the date of application.


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Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active.

Section 39. Subsection (5) of section 471.015, Florida Statutes, is amended to read:

471.015 Licensure.—

(5)(a) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 10 ~~15~~ years ~~and has had 20 years of continuous professional-level engineering experience~~.

(b) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination and the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 15 ~~25~~ years ~~and has had 30 years of continuous professional-level engineering experience~~.

Section 40. Subsection (7) of section 473.308, Florida Statutes, is amended to read:

473.308 Licensure.—

(7) The board shall certify as qualified for a license by endorsement an applicant who:

(a)~~1.~~ Is not licensed and has not been licensed in another state or territory and who has met the requirements of this section for education, work experience, and good moral character and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the

examination required by s. 473.306; or ~~and~~

~~2. Has completed such continuing education courses as the board deems appropriate, within the limits for each applicable 2-year period as set forth in s. 473.312, but at least such courses as are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement; or~~

(b)1.~~a.~~ Holds a valid license to practice public accounting issued by another state or territory of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued;

2.~~b.~~ Holds a valid license to practice public accounting issued by another state or territory of the United States but the criteria for issuance of such license did not meet the requirements of subparagraph 1. ~~sub-subparagraph a.~~; has met the requirements of this section for education, work experience, and good moral character; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

3.~~c.~~ Holds a valid license to practice public accounting issued by another state or territory of the United States for at least 10 years before the date of application; has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; and has met the requirements of this section for good moral character~~; and~~


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~~2. Has completed continuing education courses that are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement~~.

Section 41. Subsection (6) of section 474.202, Florida Statutes, is amended to read:

474.202 Definitions.—As used in this chapter:

(6) "Limited-service veterinary medical practice" means offering or providing veterinary services at any location that has a primary purpose other than that of providing veterinary medical service at a permanent or mobile establishment permitted by the board; provides veterinary medical services for privately owned animals that do not reside at that location; operates for a limited time; and provides limited types of veterinary medical services, including vaccinations or immunizations against disease, preventative procedures for parasitic control, and microchipping.

Section 42. Paragraph (b) of subsection (2) of section 474.207, Florida Statutes, is amended to read:

474.207 Licensure by examination.—

(2) The department shall license each applicant who the board certifies has:

(b)1. Graduated from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education; or

2. Graduated from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World and obtained a certificate from

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the Education Commission for Foreign Veterinary Graduates or the Program for the Assessment of Veterinary Education Equivalence.

The department shall not issue a license to any applicant who is under investigation in any state or territory of the United States or in the District of Columbia for an act which would constitute a violation of this chapter until the investigation is complete and disciplinary proceedings have been terminated, at which time the provisions of s. 474.214 shall apply.

Section 43. Subsection (1) of section 474.217, Florida Statutes, is amended to read:

474.217 Licensure by endorsement.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee set by the board, demonstrates to the board that she or he:

(a) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of veterinary medicine in this state; and

(b)1. ~~Either~~ Holds, and has held for the 3 years immediately preceding the application for licensure, a valid, active license to practice veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States, provided that the applicant has successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the examination required by the board ~~requirements for licensure in the issuing state, district, or territory are equivalent to or more stringent than the requirements of this chapter~~; or


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2. Meets the qualifications of s. 474.207(2)(b) and has successfully completed a state, regional, national, or other examination which is equivalent to or more stringent than the examination given by the department and has passed the board's clinical competency examination or another clinical competency examination specified by rule of the board.

Section 44. Effective January 1, 2021, subsection (2) of section 476.114, Florida Statutes, is amended to read:

476.114 Examination; prerequisites.—

(2) An applicant shall be eligible for licensure by examination to practice barbering if the applicant:

(a) Is at least 16 years of age;

(b) Pays the required application fee; and

(c)1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or

2. Has received a minimum of 900 ~~1,200~~ hours of training in sanitation, safety, and laws and rules, as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

a. A school of barbering licensed pursuant to chapter 1005;

b. A barbering program within the public school system; or

c. A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 600


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~~1,000~~ actual school hours. If the person passes the examination, she or he shall have satisfied this requirement; but if the person fails the examination, she or he shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 45. Subsection (5) of section 476.144, Florida Statutes, is amended to read:

476.144 Licensure.—

(5) The board shall certify as qualified for licensure by endorsement as a barber in this state an applicant who holds a current active license to practice barbering in another state. The board shall adopt rules specifying procedures for the licensure by endorsement of practitioners desiring to be licensed in this state who hold a current active license in another ~~state or~~ country and who have met qualifications substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state.

Section 46. Subsection (9) of section 477.013, Florida Statutes, is amended to read:

477.013 Definitions.—As used in this chapter:

(9) "Hair braiding" means the weaving or interweaving of natural human hair or commercial hair, including the use of hair extensions or wefts, for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment ~~and does not include the use of hair extensions or wefts~~.

Section 47. Section 477.0132, Florida Statutes, is repealed.

Section 48. Subsections (7) through (11) are added to section 477.0135, Florida Statutes, to read:

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477.0135 Exemptions.—

(7) A license or registration is not required for a person whose occupation or practice is confined solely to hair braiding as defined in s. 477.013(9).

(8) A license or registration is not required for a person whose occupation or practice is confined solely to hair wrapping as defined in s. 477.013(10).

(9) A license or registration is not required for a person whose occupation or practice is confined solely to body wrapping as defined in s. 477.013(12).

(10) A license or registration is not required for a person whose occupation or practice is confined solely to applying polish to fingernails and toenails.

(11) A license or registration is not required for a person whose occupation or practice is confined solely to the application or removal of any external preparation which is intended to cleanse, tone, color or beautify the face or neck, including, but not limited to, skin cleansers, astringents, skin fresheners, lipstick, eyeliner, eye shadow, foundation, rouge or check color, mascara, face powder or corrective stick, and other cosmetic products as defined by the board by rule.

Section 49. Subsections (6) and (7) of section 477.019, Florida Statutes, are amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(6) The board shall certify as qualified for licensure by endorsement as a cosmetologist in this state an applicant who holds a current active license to practice cosmetology in

another state. ~~The board may not require proof of educational hours if the license was issued in a state that requires 1,200 or more hours of prelicensure education and passage of a written examination. This subsection does not apply to applicants who received their license in another state through an apprenticeship program.~~

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 10 ~~16~~ hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.

(b) ~~Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.~~

~~(c)~~ The board may, by rule, require any licensee in violation of a continuing education requirement to take a

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refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.

Section 50. Effective January 1, 2021, subsection (1) of section 477.0201, Florida Statutes, is amended to read:

477.0201 Specialty registration; qualifications; registration renewal; endorsement.—

(1) Any person is qualified for registration as a specialist in any ~~one or more of the~~ specialty practice ~~practices~~ within the practice of cosmetology under this chapter who:

(a) Is at least 16 years of age or has received a high school diploma.

(b) Has received a certificate of completion for: ~~in a~~

1. One hundred and eighty hours of training, as established by the board, which shall focus primarily on sanitation and safety, to practice specialties as defined in s. 477.013(6)(a) and (b); ~~specialty pursuant to s. 477.013(6)~~

2. Two hundred and twenty hours of training, as established by the board, which shall focus primarily on sanitation and safety, to practice the specialty as defined in s. 477.013(6)(c); or

3. Four hundred hours of training or the number of hours of training required to maintain minimum Pell Grant requirements, as established by the board, which shall focus primarily on sanitation and safety, to practice the specialties as defined in s. 477.013(6)(a)-(c).

(c) The certificate of completion specified in paragraph (b) must be from one of the following:

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1. A school licensed pursuant to s. 477.023.

2. A school licensed pursuant to chapter 1005 or the equivalent licensing authority of another state.

3. A specialty program within the public school system.

4. A specialty division within the Cosmetology Division of the Florida School for the Deaf and the Blind, provided the training programs comply with minimum curriculum requirements established by the board.

Section 51. Paragraph (f) of subsection (1) of section 477.026, Florida Statutes, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

~~(f) For hair braiders, hair wrappers, and body wrappers, fees for registration shall not exceed $25.~~

Section 52. Subsection (4) of section 477.0263, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

477.0263 Cosmetology services to be performed in licensed salon; exceptions.—

(4) Pursuant to rules adopted by the board, any cosmetology or specialty service may be performed in a location other than a licensed salon when the service is performed in connection with a special event and is performed by a person ~~who is employed by a licensed salon and~~ who holds the proper license or specialty registration. ~~An appointment for the performance of any such service in a location other than a licensed salon must be made through a licensed salon.~~

(5) Hair shampooing, hair cutting, hair arranging, makeup

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application, nail polish removal, nail filing, nail buffing, and nail cleansing may be performed in a location other than a licensed salon when the service is performed by a person who holds the proper license.

Section 53. Paragraph (f) of subsection (1) of section 477.0265, Florida Statutes, is amended to read:

477.0265 Prohibited acts.—

(1) It is unlawful for any person to:

(f) Advertise or imply that skin care services ~~or body wrapping~~, as performed under this chapter, have any relationship to the practice of massage therapy as defined in s. 480.033(3), except those practices or activities defined in s. 477.013.

Section 54. Paragraph (a) of subsection (1) of section 477.029, Florida Statutes, is amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a cosmetologist or~~,~~ specialist~~, hair wrapper, hair braider, or body wrapper~~ unless duly licensed or registered, or otherwise authorized, as provided in this chapter.

Section 55. Section 481.201, Florida Statutes, is amended to read:

481.201 Purpose.—The primary legislative purpose for enacting this part is to ensure that every architect practicing in this state meets minimum requirements for safe practice. It is the legislative intent that architects who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. ~~The Legislature further finds that it is in the interest of the public to limit~~

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~~the practice of interior design to interior designers or architects who have the design education and training required by this part or to persons who are exempted from the provisions of this part.~~

Section 56. Section 481.203, Florida Statutes, is reordered and amended to read:

481.203 Definitions.—As used in this part, the term:

(3)~~(1)~~ "Board" means the Board of Architecture and Interior Design.

(7)~~(2)~~ "Department" means the Department of Business and Professional Regulation.

(1)~~(3)~~ "Architect" or "registered architect" means a natural person who is licensed under this part to engage in the practice of architecture.

(5)~~(4)~~ "Certificate of registration" means a license or registration issued by the department to a natural person to engage in the practice of architecture or interior design.

(4)~~(5)~~ "Business organization" means a partnership, a limited liability company, a corporation, or an individual operating under a fictitious name ~~"Certificate of authorization" means a certificate issued by the department to a corporation or partnership to practice architecture or interior design~~.

(2)~~(6)~~ "Architecture" means the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of

construction contracts.

(16) ~~(7)~~ "Townhouse" is a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units. Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of construction and fire protection requirements; or shall be separated by a party wall; or may be separated by a single wall meeting the following requirements:

(a) Such wall shall provide not less than 2 hours of fire resistance. Plumbing, piping, ducts, or electrical or other building services shall not be installed within or through the 2-hour wall unless such materials and methods of penetration have been tested in accordance with the Standard Building Code.

(b) Such wall shall extend from the foundation to the underside of the roof sheathing, and the underside of the roof shall have at least 1 hour of fire resistance for a width not less than 4 feet on each side of the wall.

(c) Each dwelling unit sharing such wall shall be designed and constructed to maintain its structural integrity independent of the unit on the opposite side of the wall.

(10) ~~(8)~~ "Interior design" means designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements of a building or structure. "Interior design" includes, but is not limited to, reflected ceiling plans, space planning, furnishings, and the fabrication of nonstructural elements


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within and surrounding interior spaces of buildings. "Interior design" specifically excludes the design of or the responsibility for architectural and engineering work, except for specification of fixtures and their location within interior spaces. As used in this subsection, "architectural and engineering interior construction relating to the building systems" includes, but is not limited to, construction of structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems, or construction which materially affects lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems.

(13) ~~(9)~~ "Registered interior designer" ~~or "interior designer"~~ means a natural person who holds a valid certificate of registration to practice interior design ~~is licensed under this part~~.

(11) ~~(10)~~ "Nonstructural element" means an element which does not require structural bracing and which is something other than a load-bearing wall, load-bearing column, or other load-bearing element of a building or structure which is essential to the structural integrity of the building.

(12) ~~(11)~~ "Reflected ceiling plan" means a ceiling design plan which is laid out as if it were projected downward and which may include lighting and other elements.

(15) ~~(12)~~ "Space planning" means the analysis, programming, or design of spatial requirements, including preliminary space

layouts and final planning.

(6) ~~(13)~~ "Common area" means an area that is held out for use by all tenants or owners in a multiple-unit dwelling, including, but not limited to, a lobby, elevator, hallway, laundry room, clubhouse, or swimming pool.

(8) ~~(14)~~ "Diversified interior design experience" means experience which substantially encompasses the various elements of interior design services set forth under the definition of "interior design" in subsection (10) ~~(8)~~.

(9) ~~(15)~~ "Interior decorator services" includes the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes.

(14) ~~(16)~~ "Responsible supervising control" means the exercise of direct personal supervision and control throughout the preparation of documents, instruments of service, or any other work requiring the seal and signature of a licensee under this part.

Section 57. Paragraph (a) of subsection (3) of section 481.205, Florida Statutes, is amended to read:

481.205 Board of Architecture and Interior Design.—

(3)(a) Notwithstanding the provisions of ss. 455.225, 455.228, and 455.32, the duties and authority of the department to receive complaints and investigate and discipline persons licensed or registered under this part, including the ability to determine legal sufficiency and probable cause; to initiate proceedings and issue final orders for summary suspension or


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restriction of a license or certificate of registration pursuant to s. 120.60(6); to issue notices of noncompliance, notices to cease and desist, subpoenas, and citations; to retain legal counsel, investigators, or prosecutorial staff in connection with the licensed practice of architecture or registered ~~and~~ interior design; and to investigate and deter the unlicensed practice of architecture ~~and interior design~~ as provided in s. 455.228 are delegated to the board. All complaints and any information obtained pursuant to an investigation authorized by the board are confidential and exempt from s. 119.07(1) as provided in s. 455.225(2) and (10).

Section 58. Section 481.207, Florida Statutes, is amended to read:

481.207 Fees.—The board, by rule, may establish ~~separate~~ fees for architects and registered interior designers, to be paid for applications, examination, reexamination, licensing and renewal, delinquency, reinstatement, and recordmaking and recordkeeping. The examination fee shall be in an amount that covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The application fee is nonrefundable. The fee for initial application and examination for architects ~~and interior designers~~ may not exceed $775 plus the actual per applicant cost to the department for purchase of the examination from the National Council of Architectural Registration Boards ~~or the National Council of Interior Design Qualifications, respectively,~~ or similar national organizations. The initial nonrefundable fee for registered interior designers may not exceed $75. The biennial renewal fee for architects may not

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exceed $200. The biennial renewal fee for registered interior designers may not exceed $75 ~~$500~~. The delinquency fee may not exceed the biennial renewal fee established by the board for an active license. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of architects and registered interior designers. Fees shall be based on department estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of architects and interior designers.

Section 59. Section 481.209, Florida Statutes, is amended to read:

481.209 Examinations.—

(1) A person desiring to be licensed as a registered architect by initial examination shall apply to the department, complete the application form, and remit a nonrefundable application fee. The department shall license any applicant who the board certifies~~:~~

~~(a)~~ has passed the licensure examination prescribed by board rule~~;~~ and

~~(b)~~ is a graduate of a school or college of architecture with a program accredited by the National Architectural Accreditation Board.

(2) A person seeking to obtain a certificate of registration as a registered interior designer and a seal pursuant to s. 481.221 must provide the department with his or her name and address and written proof that he or she has successfully passed the qualification examination prescribed by


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the Council for Interior Design Qualification or its successor entity or the California Council for Interior Design Certification or its successor entity, or has successfully passed an equivalent exam as determined by the department. Any person who is licensed as an interior designer by the department and who was in good standing as of July 1, 2020, is eligible to obtain a certificate of registration as a registered interior designer ~~A person desiring to be licensed as a registered interior designer shall apply to the department for licensure. The department shall administer the licensure examination for interior designers to each applicant who has completed the application form and remitted the application and examination fees specified in s. 481.207 and who the board certifies:~~

~~(a) Is a graduate from an interior design program of 5 years or more and has completed 1 year of diversified interior design experience;~~

~~(b) Is a graduate from an interior design program of 4 years or more and has completed 2 years of diversified interior design experience;~~

~~(c) Has completed at least 3 years in an interior design curriculum and has completed 3 years of diversified interior design experience; or~~

~~(d) Is a graduate from an interior design program of at least 2 years and has completed 4 years of diversified interior design experience.~~

~~Subsequent to October 1, 2000, for the purpose of having the educational qualification required under this subsection accepted by the board, the applicant must complete his or her~~


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~~education at a program, school, or college of interior design whose curriculum has been approved by the board as of the time of completion. Subsequent to October 1, 2003, all of the required amount of educational credits shall have been obtained in a program, school, or college of interior design whose curriculum has been approved by the board, as of the time each educational credit is gained. The board shall adopt rules providing for the review and approval of programs, schools, and colleges of interior design and courses of interior design study based on a review and inspection by the board of the curriculum of programs, schools, and colleges of interior design in the United States, including those programs, schools, and colleges accredited by the Foundation for Interior Design Education Research. The board shall adopt rules providing for the review and approval of diversified interior design experience required by this subsection~~.

Section 60. Section 481.213, Florida Statutes, is amended to read:

481.213 Licensure and registration.—

(1) The department shall license or register any applicant who the board certifies is qualified for licensure or registration and who has paid the initial licensure or registration fee. Licensure as an architect under this section shall be deemed to include all the rights and privileges of registration ~~licensure~~ as an interior designer under this section.

(2) The board shall certify for licensure or registration by examination any applicant who passes the prescribed licensure or registration examination and satisfies the requirements of


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ss. 481.209 and 481.211, for architects, or the requirements of s. 481.209, for interior designers.

(3) The board shall certify as qualified for a license by endorsement as an architect or registration as a registered ~~an~~ interior designer an applicant who:

(a) Qualifies to take the prescribed licensure or registration examination, and has passed the prescribed licensure registration examination or a substantially equivalent examination in another jurisdiction, as set forth in s. 481.209 for architects or registered interior designers, as applicable, and has satisfied the internship requirements set forth in s. 481.211 for architects;

(b) Holds a valid license to practice architecture or a license, registration, or certification to practice interior design issued by another jurisdiction of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued; ~~provided, however, that an applicant who has been licensed for use of the title "interior design" rather than licensed to practice interior design shall not qualify hereunder;~~ or

(c) Has passed the prescribed licensure examination and holds a valid certificate issued by the National Council of Architectural Registration Boards, and holds a valid license to practice architecture issued by another state or jurisdiction of the United States.

An architect who is licensed in another state who seeks qualification for license by endorsement under this subsection


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must complete a 2-hour class approved by the board on the Florida Building Code.

(4) The board may refuse to certify any applicant who has violated any of the provisions of s. 481.223, s. 481.225, or s. 481.2251, as applicable.

(5) The board may refuse to certify any applicant who is under investigation in any jurisdiction for any act which would constitute a violation of this part or of chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

(6) The board shall adopt rules to implement the provisions of this part relating to the examination, internship, and licensure of applicants.

(7) For persons whose licensure requires satisfaction of the requirements of ss. 481.209 and 481.211, the board shall, by rule, establish qualifications for certification of such persons as special inspectors of threshold buildings, as defined in ss. 553.71 and 553.79, and shall compile a list of persons who are certified. A special inspector is not required to meet standards for certification other than those established by the board, and the fee owner of a threshold building may not be prohibited from selecting any person certified by the board to be a special inspector. The board shall develop minimum qualifications for the qualified representative of the special inspector who is authorized under s. 553.79 to perform inspections of threshold buildings on behalf of the special inspector.

(8) A certificate of registration is not required for a person whose occupation or practice is confined to interior decorator services or for a person whose occupation or practice

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is confined to interior design except as required in this part.

Section 61. Subsection (1) of section 481.2131, Florida Statutes, is amended to read:

481.2131 Interior design; practice requirements; disclosure of compensation for professional services.—

(1) A registered interior designer is authorized to perform "interior design" as defined in s. 481.203. Interior design documents prepared by a registered interior designer shall contain a statement that the document is not an architectural or engineering study, drawing, specification, or design and is not to be used for construction of any load-bearing columns, load-bearing framing or walls of structures, or issuance of any building permit, except as otherwise provided by law. Interior design documents that are prepared and sealed by a registered interior designer must ~~may~~, if required by a permitting body, be accepted by the permitting body ~~be submitted~~ for the issuance of a building permit for interior construction excluding design of any structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems or that materially affect lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems. Interior design documents submitted for the issuance of a building permit by an individual performing interior design services who is not a licensed architect must include a seal issued by the department and in conformance with the requirements of s. 481.221.

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Section 62. Section 481.215, Florida Statutes, is amended to read:

481.215 Renewal of license or certificate of registration.—

(1) Subject to the requirement of subsection (3), the department shall renew a license or certificate of registration upon receipt of the renewal application and renewal fee.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses and certificates of registration.

(3) A ~~No~~ license or certificate of registration renewal may not ~~shall~~ be issued to an architect or a registered ~~an~~ interior designer by the department until the licensee or registrant submits proof satisfactory to the department that, during the 2 years before ~~prior to~~ application for renewal, the licensee or registrant participated per biennium in not less than 20 hours of at least 50 minutes each per biennium of continuing education approved by the board. The board shall approve only continuing education that builds upon the basic knowledge of architecture or interior design. The board may make exception from the requirements of continuing education in emergency or hardship cases.

(4) The board shall by rule establish criteria for the approval of continuing education courses and providers and shall by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(5) For a license or certificate of registration, the board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, 2 ~~a specified number of~~ hours in specialized or advanced courses~~, approved by the Florida Building Commission,~~ on any


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portion of the Florida Building Code, adopted pursuant to part IV of chapter 553, relating to the licensee's respective area of practice. Such hours count toward the continuing education hours required under subsection (3). A licensee may complete the courses required under this subsection online.

Section 63. Section 481.217, Florida Statutes, is amended to read:

481.217 Inactive status.—

(1) The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The rules may not require more than one renewal cycle of continuing education to reactivate a license or registration for a registered architect or registered interior designer. ~~For interior design, the board may approve only continuing education that builds upon the basic knowledge of interior design.~~

(2) The board shall adopt rules relating to application procedures for inactive status and for the reactivation of inactive licenses and registrations.

Section 64. Section 481.219, Florida Statutes, is amended to read:

481.219 Qualification of business organizations ~~certification of partnerships, limited liability companies, and corporations~~.—

(1) A licensee may ~~The practice of or the offer to~~ practice architecture ~~or interior design by licensees~~ through a qualified business organization that offers ~~corporation, limited liability company, or partnership offering~~ architectural ~~or interior design~~ services to the public~~, or by a corporation, limited liability company, or partnership offering architectural or~~


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~~interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted~~, subject to the provisions of this section.

(2) If a licensee or an applicant proposes to engage in the practice of architecture as a business organization, the licensee or applicant shall qualify the business organization upon approval of the board ~~For the purposes of this section, a certificate of authorization shall be required for a corporation, limited liability company, partnership, or person practicing under a fictitious name, offering architectural services to the public jointly or separately. However, when an individual is practicing architecture in her or his own name, she or he shall not be required to be certified under this section. Certification under this subsection to offer architectural services shall include all the rights and privileges of certification under subsection (3) to offer interior design services~~.

(3)(a) A business organization may not engage in the practice of architecture unless its qualifying agent is a registered architect under this part. A qualifying agent who terminates an affiliation with a qualified business organization shall immediately notify the department of such termination. If such qualifying agent is the only qualifying agent for that business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination. Except as provided in paragraph (b), the business organization may not engage in the practice of architecture until it is qualified by another qualifying agent.

(b) In the event a qualifying agent ceases employment with


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a qualified business organization, the executive director or the chair of the board may authorize another registered architect employed by the business organization to temporarily serve as its qualifying agent for a period of no more than 60 days. The business organization is not authorized to operate beyond such period under this chapter absent replacement of the qualifying agent who has ceased employment.

(c) A qualifying agent shall notify the department in writing before engaging in the practice of architecture in her or his own name or in affiliation with a different business organization, and she or he or such business organization shall supply the same information to the department as required of applicants under this part.

~~(3) For the purposes of this section, a certificate of authorization shall be required for a corporation, limited liability company, partnership, or person operating under a fictitious name, offering interior design services to the public jointly or separately. However, when an individual is practicing interior design in her or his own name, she or he shall not be required to be certified under this section.~~

(4) All final construction documents and instruments of service which include drawings, specifications, plans, reports, or other papers or documents that involve ~~involving~~ the practice of architecture which are prepared or approved for the use of the business organization ~~corporation, limited liability company, or partnership~~ and filed for public record within the state must ~~shall~~ bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.


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(5) ~~All drawings, specifications, plans, reports, or other papers or documents prepared or approved for the use of the corporation, limited liability company, or partnership by an interior designer in her or his professional capacity and filed for public record within the state shall bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.~~

~~(6) The department shall issue a certificate of authorization to any applicant who the board certifies as qualified for a certificate of authorization and who has paid the fee set in s. 481.207.~~

~~(7)~~ The board shall allow a licensee or ~~certify~~ an applicant to qualify one or more business organizations ~~as qualified for a certificate of authorization~~ to offer architectural ~~or interior design~~ services, or to use a fictitious name to offer such services, if ~~provided that:~~

~~(a)~~ one or more of the principal officers of the corporation or limited liability company, or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as architects, are registered as provided by this part~~; or~~

~~(b) One or more of the principal officers of the corporation or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as interior designers, are registered as provided by this part~~.

~~(8) The department shall adopt rules establishing a procedure for the biennial renewal of certificates of~~


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~~authorization.~~

~~(9) The department shall renew a certificate of authorization upon receipt of the renewal application and biennial renewal fee.~~

(6)~~(10)~~ Each qualifying agent who qualifies a business organization, partnership, limited liability company, or ~~and~~ corporation certified under this section shall notify the department within 30 days after ~~of~~ any change in the information contained in the application upon which the qualification ~~certification~~ is based. Any registered architect or interior designer who qualifies the business organization shall ensure ~~corporation, limited liability company, or partnership as provided in subsection (7) shall be responsible for ensuring~~ responsible supervising control of projects of the business organization ~~entity~~ and shall notify the department of the ~~upon~~ termination of her or his employment with a business organization qualified ~~partnership, limited liability company, or corporation certified~~ under this section ~~shall notify the department of the termination~~ within 30 days after such termination.

(7)~~(11)~~ A business organization is not ~~No corporation, limited liability company, or partnership shall be~~ relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section. However, except as provided in s. 558.0035, the architect who signs and seals the construction documents and instruments of service is ~~shall be~~ liable for the professional services performed, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be


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liable for the professional services performed.

~~(12) Disciplinary action against a corporation, limited liability company, or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered architect or interior designer, respectively.~~

(8) ~~(13) Nothing in~~ This section may not ~~shall~~ be construed to mean that a certificate of registration to practice architecture must ~~or interior design shall~~ be held by a business organization ~~corporation, limited liability company, or partnership~~. ~~Nothing in~~ This section does not prohibit a business organization from offering ~~prohibits corporations, limited liability companies, and partnerships from joining together to offer~~ architectural, engineering, ~~interior design,~~ surveying and mapping, and landscape architectural services, or any combination of such services, to the public if the business organization~~, provided that each corporation, limited liability company, or partnership~~ otherwise meets the requirements of law.

~~(14) Corporations, limited liability companies, or partnerships holding a valid certificate of authorization to practice architecture shall be permitted to use in their title the term "interior designer" or "registered interior designer."~~

Section 65. Subsections (5) and (10) of section 481.221, Florida Statutes, are amended to read:

481.221 Seals; display of certificate number.—

(5) No registered interior designer shall affix, or permit to be affixed, her or his seal or signature to any plan, specification, drawing, or other document which depicts work which she or he is not competent or registered ~~licensed~~ to


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perform.

(10) Each registered architect must ~~or interior designer, and each corporation, limited liability company, or partnership holding a certificate of authorization, shall~~ include her or his license ~~its certificate~~ number in any newspaper, telephone directory, or other advertising medium used by the registered licensee. Each business organization must include the license number of the registered architect who serves as the qualifying agent for that business organization in any newspaper, telephone directory, or other advertising medium used by the business organization ~~architect, interior designer, corporation, limited liability company, or partnership. A corporation, limited liability company, or partnership is not required to display the certificate number of individual registered architects or interior designers employed by or working within the corporation, limited liability company, or partnership~~.

Section 66. Section 481.223, Florida Statutes, is amended to read:

481.223 Prohibitions; penalties; injunctive relief.—

(1) A person may not knowingly:

(a) Practice architecture unless the person is an architect or a registered architect; however, a licensed architect who has been licensed by the board and who chooses to relinquish or not to renew his or her license may use the title "Architect, Retired" but may not otherwise render any architectural services.

~~(b) Practice interior design unless the person is a registered interior designer unless otherwise exempted herein; however, an interior designer who has been licensed by the board~~

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~~and who chooses to relinquish or not to renew his or her license may use the title "Interior Designer, Retired" but may not otherwise render any interior design services.~~

(b)~~(c)~~ Use the name or title "architect," ~~or~~ "registered architect," or ~~"interior designer" or~~ "registered interior designer~~,~~" ~~or words to that effect,~~ when the person is not then the holder of a valid license or certificate of registration issued pursuant to this part. This paragraph does not restrict the use of the name or title "interior designer" or "interior design firm."

(c)~~(d)~~ Present as his or her own the license of another.

(d)~~(e)~~ Give false or forged evidence to the board or a member thereof.

(e)~~(f)~~ Use or attempt to use an architect ~~or interior designer~~ license or interior design certificate of registration that has been suspended, revoked, or placed on inactive or delinquent status.

(f)~~(g)~~ Employ unlicensed persons to practice architecture ~~or interior design~~.

(g)~~(h)~~ Conceal information relative to violations of this part.

(2) Any person who violates any provision of subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3)(a) Notwithstanding chapter 455 or any other law to the contrary, an affected person may maintain an action for injunctive relief to restrain or prevent a person from violating paragraph (1)(a) or~~,~~ paragraph (1)(b)~~, or paragraph (1)(c)~~. The prevailing party is entitled to actual costs and attorney's


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fees.

(b) For purposes of this subsection, the term "affected person" means a person directly affected by the actions of a person suspected of violating paragraph (1)(a) or~~,~~ paragraph (1)(b)~~, or paragraph (1)(c)~~ and includes, but is not limited to, the department, any person who received services from the alleged violator, or any private association composed primarily of members of the profession the alleged violator is practicing or offering to practice or holding himself or herself out as qualified to practice.

Section 67. Section 481.2251, Florida Statutes, is amended to read:

481.2251 Disciplinary proceedings against registered interior designers.—

(1) The following acts constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to register ~~obtain, obtaining,~~ or renewing registration~~,~~ by bribery, by fraudulent misrepresentation, or through an error of the board~~, a license to practice interior design~~;

(b) Having an interior design license, certification, or registration ~~a license to practice interior design~~ revoked, suspended, or otherwise acted against, including the denial of licensure, registration, or certification by the licensing authority of another jurisdiction for any act which would constitute a violation of this part or of chapter 455;

(c) Being convicted or found guilty~~, regardless of adjudication,~~ of a crime in any jurisdiction which directly relates to the provision of interior design services or to the


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ability to provide interior design services~~. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charges and the circumstances surrounding her or his plea~~;

(d) False, deceptive, or misleading advertising;

(e) ~~Failing to report to the board any person who the licensee knows is in violation of this part or the rules of the board;~~

~~(f) Aiding, assisting, procuring, or advising any unlicensed person to use the title "interior designer" contrary to this part or to a rule of the board;~~

~~(g) Failing to perform any statutory or legal obligation placed upon a registered interior designer;~~

~~(h)~~ Making or filing a report which the registrant ~~licensee~~ knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a registered interior designer;

(f) ~~(i)~~ Making deceptive, untrue, or fraudulent representations in the provision of interior design services;

(g) ~~(j)~~ Accepting and performing professional responsibilities which the registrant ~~licensee~~ knows or has reason to know that she or he is not competent ~~or licensed~~ to perform;

~~(k) Violating any provision of this part, any rule of the~~


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~~board, or a lawful order of the board previously entered in a disciplinary hearing;~~

~~(l) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services;~~

~~(m) Acceptance of compensation or any consideration by an interior designer from someone other than the client without full disclosure of the compensation or consideration amount or value to the client prior to the engagement for services, in violation of s. 481.2131(2);~~

(h) ~~(n)~~ Rendering or offering to render architectural services; or

(i) ~~(o)~~ Committing an act of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of interior design~~, including, but not limited to, allowing the preparation of any interior design studies, plans, or other instruments of service in an office that does not have a full-time Florida-registered interior designer assigned to such office or failing to exercise responsible supervisory control over services or projects, as required by board rule~~.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order taking the following action or imposing one or more of the following penalties:

(a) Refusal to register the applicant ~~approve an application for licensure~~;

(b) Refusal to renew an existing registration ~~license~~;

(c) Removal from the state registry ~~Revocation or~~

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~~suspension of a license~~; or

(d) Imposition of an administrative fine not to exceed $500 ~~$1,000~~ for each violation or separate offense and a fine of up to $2,500 ~~$5,000~~ for matters pertaining to a material violation of the Florida Building Code as reported by a local jurisdiction~~; or~~

~~(e) Issuance of a reprimand~~.

Section 68. Paragraph (b) of subsection (5), and subsections (6), and (8) of section 481.229, Florida Statutes, are amended to read:

481.229 Exceptions; exemptions from licensure.—

(5)

(b) Notwithstanding any other provision of this part, all persons licensed as architects under this part shall be qualified for interior design registration ~~licensure~~ upon submission of a completed application for such license and a fee not to exceed $30. Such persons shall be exempt from the requirements of s. 481.209(2). For architects licensed as interior designers, satisfaction of the requirements for renewal of licensure as an architect under s. 481.215 shall be deemed to satisfy the requirements for renewal of registration ~~licensure~~ as an interior designer under that section. Complaint processing, investigation, or other discipline-related legal costs related to persons licensed as interior designers under this paragraph shall be assessed against the architects' account of the Regulatory Trust Fund.

(6) This part shall not apply to~~:~~

~~(a) A person who performs interior design services or interior decorator services for any residential application,~~


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~~provided that such person does not advertise as, or represent himself or herself as, an interior designer. For purposes of this paragraph, "residential applications" includes all types of residences, including, but not limited to, residence buildings, single-family homes, multifamily homes, townhouses, apartments, condominiums, and domestic outbuildings appurtenant to one-family or two-family residences. However, "residential applications" does not include common areas associated with instances of multiple-unit dwelling applications.~~

~~(b)~~ an employee of a retail establishment providing "interior decorator services" on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, provided that such employee does not advertise as, or represent himself or herself as, an interior designer.

(8) A manufacturer of commercial food service equipment or the manufacturer's representative, distributor, or dealer or an employee thereof, who prepares designs, specifications, or layouts for the sale or installation of such equipment is exempt from licensure as an architect ~~or interior designer~~, if:

(a) The designs, specifications, or layouts are not used for construction or installation that may affect structural, mechanical, plumbing, heating, air conditioning, ventilating, electrical, or vertical transportation systems.

(b) The designs, specifications, or layouts do not materially affect lifesafety systems pertaining to firesafety protection, smoke evacuation and compartmentalization, and emergency ingress or egress systems.

(c) Each design, specification, or layout document prepared

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by a person or entity exempt under this subsection contains a statement on each page of the document that the designs, specifications, or layouts are not architectural~~, interior design,~~ or engineering designs, specifications, or layouts and not used for construction unless reviewed and approved by a licensed architect or engineer.

Section 69. Subsection (1) of section 481.231, Florida Statutes, is amended to read:

481.231 Effect of part locally.—

(1) ~~Nothing in~~ This part does not ~~shall be construed to~~ repeal, amend, limit, or otherwise affect any specific provision of any local building code or zoning law or ordinance that has been duly adopted, now or hereafter enacted, which is more restrictive, with respect to the services of registered architects or registered interior designers, than ~~the provisions of~~ this part; provided, however, that a licensed architect shall be deemed registered ~~licensed~~ as an interior designer for purposes of offering or rendering interior design services to a county, municipality, or other local government or political subdivision.

Section 70. Section 481.303, Florida Statutes, is amended to read:

481.303 Definitions.—As used in this chapter, the term:

(1) "Board" means the Board of Landscape Architecture.

(3) ~~(2)~~ "Department" means the Department of Business and Professional Regulation.

(6) ~~(3)~~ "Registered landscape architect" means a person who holds a license to practice landscape architecture in this state under the authority of this act.


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(2)~~(4)~~ "Certificate of registration" means a license issued by the department to a natural person to engage in the practice of landscape architecture.

~~(5) "Certificate of authorization" means a license issued by the department to a corporation or partnership to engage in the practice of landscape architecture.~~

(4)~~(6)~~ "Landscape architecture" means professional services, including, but not limited to, the following:

(a) Consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas, including the use of Florida-friendly landscaping as defined in s. 373.185, where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values;

(b) The determination of settings, grounds, and approaches for and the siting of buildings and structures, outdoor areas, or other improvements;

(c) The setting of grades, shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems where such systems are necessary to the purposes outlined herein; and

(d) The design of such tangible objects and features as are necessary to the purpose outlined herein.

(5)~~(7)~~ "Landscape design" means consultation for and

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preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects. Construction documents, details, and specifications for tangible objects and irrigation systems shall be designed or approved by licensed professionals as required by law.

Section 71. Section 481.310, Florida Statutes, is amended to read:

481.310 Practical experience requirement.—Beginning October 1, 1990, every applicant for licensure as a registered landscape architect shall demonstrate, prior to licensure, 1 year of practical experience in landscape architectural work. An applicant who holds a master of landscape architecture degree and a bachelor's degree in a related field is not required to demonstrate 1 year of practical experience in landscape architectural work to obtain licensure. The board shall adopt rules providing standards for the required experience. An applicant who qualifies for examination pursuant to s. 481.309(1)(b)1. may obtain the practical experience after completing the required professional degree. Experience used to qualify for examination pursuant to s. 481.309(1)(b)2. may not be used to satisfy the practical experience requirement under this section.

Section 72. Subsections (3) and (4) of section 481.311, Florida Statutes, are amended, to read:

481.311 Licensure.—

(3) The board shall certify as qualified for a license by


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endorsement an applicant who~~:~~

~~(a) Qualifies to take the examination as set forth in s. 481.309; and has passed a national, regional, state, or territorial licensing examination which is substantially equivalent to the examination required by s. 481.309; or~~

~~(b)~~ holds a valid license to practice landscape architecture issued by another state or territory of the United States~~, if the criteria for issuance of such license were substantially identical to the licensure criteria which existed in this state at the time the license was issued~~.

~~(4) The board shall certify as qualified for a certificate of authorization any applicant corporation or partnership who satisfies the requirements of s. 481.319.~~

Section 73. Subsection (4) of section 481.313, Florida Statutes, is amended to read:

481.313 Renewal of license.—

(4) The board, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall establish criteria for the approval of continuing education courses and providers, and shall by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis. A landscape architect shall receive hour-for-hour credit for attending continuing education courses approved by the Landscape Architecture Continuing Education System or another nationally recognized clearinghouse for continuing education that relate to and increase his or her basic knowledge of landscape architecture, as determined by the board, if the landscape architect submits proof satisfactory to the board that such course was approved by the Landscape Architecture Continuing


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Education System or another nationally recognized clearinghouse for continuing education, along with the syllabus or outline for such course and proof of course attendance.

Section 74. Subsection (2) of section 481.317, Florida Statutes, is amended to read:

481.317 Temporary certificates.—

~~(2) Upon approval by the board and payment of the fee set in s. 481.307, the department shall grant a temporary certificate of authorization for work on one specified project in this state for a period not to exceed 1 year to an out-of-state corporation, partnership, or firm, provided one of the principal officers of the corporation, one of the partners of the partnership, or one of the principals in the fictitiously named firm has obtained a temporary certificate of registration in accordance with subsection (1).~~

Section 75. Section 481.319, Florida Statutes, is amended to read:

481.319 Corporate and partnership practice of landscape architecture~~; certificate of authorization~~.—

(1) The practice of or offer to practice landscape architecture by registered landscape architects registered under this part through a corporation or partnership offering landscape architectural services to the public, or through a corporation or partnership offering landscape architectural services to the public through individual registered landscape architects as agents, employees, officers, or partners, is permitted, subject to the provisions of this section, if:

(a) One or more of the principal officers of the corporation, or partners of the partnership, and all personnel


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of the corporation or partnership who act in its behalf as landscape architects in this state are registered landscape architects; and

(b) One or more of the officers, one or more of the directors, one or more of the owners of the corporation, or one or more of the partners of the partnership is a registered landscape architect~~; and~~

~~(c) The corporation or partnership has been issued a certificate of authorization by the board as provided herein~~.

(2) All documents involving the practice of landscape architecture which are prepared for the use of the corporation or partnership shall bear the signature and seal of a registered landscape architect.

(3) A landscape architect applying to practice in the name of a ~~An applicant~~ corporation must ~~shall~~ file with the department the names and addresses of all officers and board members of the corporation, including the principal officer or officers, duly registered to practice landscape architecture in this state and, also, of all individuals duly registered to practice landscape architecture in this state who shall be in responsible charge of the practice of landscape architecture by the corporation in this state. A landscape architect applying to practice in the name of a ~~An applicant~~ partnership must ~~shall~~ file with the department the names and addresses of all partners of the partnership, including the partner or partners duly registered to practice landscape architecture in this state and, also, of an individual or individuals duly registered to practice landscape architecture in this state who shall be in responsible charge of the practice of landscape architecture by


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said partnership in this state.

(4) Each landscape architect qualifying a partnership or ~~and~~ corporation ~~licensed~~ under this part must ~~shall~~ notify the department within 1 month after ~~of~~ any change in the information contained in the application upon which the license is based. Any landscape architect who terminates her or his ~~or her~~ employment with a partnership or corporation licensed under this part shall notify the department of the termination within 1 month after such termination.

(5) ~~Disciplinary action against a corporation or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered landscape architect.~~

~~(6)~~ Except as provided in s. 558.0035, the fact that a registered landscape architect practices landscape architecture through a corporation or partnership as provided in this section does not relieve the landscape architect from personal liability for her or his ~~or her~~ professional acts.

Section 76. Subsection (5) of section 481.321, Florida Statutes, is amended to read:

481.321 Seals; display of certificate number.—

(5) Each registered landscape architect must ~~and each corporation or partnership holding a certificate of authorization shall~~ include her or his ~~its~~ certificate number in any newspaper, telephone directory, or other advertising medium used by the registered landscape architect, corporation, or partnership. A corporation or partnership must ~~is not required to~~ display the certificate number ~~numbers~~ of at least one officer, director, owner, or partner who is a ~~individual~~


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registered landscape architect ~~architects~~ employed by or practicing with the corporation or partnership.

Section 77. Subsection (5) of section 481.329, Florida Statutes, is amended to read:

481.329 Exceptions; exemptions from licensure.—

(5) This part does not prohibit any person from engaging in the practice of landscape design, as defined in s. 481.303 ~~s. 481.303(7)~~, or from submitting for approval to a governmental agency planting plans that are independent of, or a component of, construction documents that are prepared by a Florida-registered professional. Persons providing landscape design services shall not use the title, term, or designation "landscape architect," "landscape architectural," "landscape architecture," "L.A.," "landscape engineering," or any description tending to convey the impression that she or he is a landscape architect unless she or he is registered as provided in this part.

Section 78. Subsection (9) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(9) Any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than $2,500 ~~$1,000~~, but this exemption does not apply:

(a) If the construction, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than $2,500 ~~$1,000~~ for the purpose of evading this part or otherwise.


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(b) To a person who advertises that he or she is a contractor or otherwise represents that he or she is qualified to engage in contracting.

Section 79. Subsection (2) of section 489.111, Florida Statutes, is amended to read:

489.111 Licensure by examination.—

(2) A person shall be eligible for licensure by examination if the person:

(a) Is 18 years of age;

(b) Is of good moral character; and

(c) Meets eligibility requirements according to one of the following criteria:

1. Has received a baccalaureate degree from an accredited 4-year college in the appropriate field of engineering, architecture, or building construction and has 1 year of proven experience in the category in which the person seeks to qualify. For the purpose of this part, a minimum of 2,000 person-hours shall be used in determining full-time equivalency. An applicant who is exempt from passing an examination under s. 489.113(1) is eligible for a license under this section.

2. Has a total of at least 4 years of active experience as a worker who has learned the trade by serving an apprenticeship as a skilled worker who is able to command the rate of a mechanic in the particular trade or as a foreman who is in charge of a group of workers and usually is responsible to a superintendent or a contractor or his or her equivalent, provided, however, that at least 1 year of active experience shall be as a foreman.

3. Has a combination of not less than 1 year of experience

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as a foreman and not less than 3 years of credits for any accredited college-level courses; has a combination of not less than 1 year of experience as a skilled worker, 1 year of experience as a foreman, and not less than 2 years of credits for any accredited college-level courses; or has a combination of not less than 2 years of experience as a skilled worker, 1 year of experience as a foreman, and not less than 1 year of credits for any accredited college-level courses. All junior college or community college-level courses shall be considered accredited college-level courses.

4.a. An active certified residential contractor is eligible to receive a certified building contractor license after passing or having previously passed ~~take~~ the building contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified residential contractor is eligible to receive a certified general contractor license after passing or having previously passed ~~take~~ the general contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified building contractor is eligible to receive a certified general contractor license after passing or having previously passed ~~take~~ the general contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

5.a. An active certified air-conditioning Class C

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contractor is eligible to receive a certified air-conditioning Class B contractor license after passing or having previously passed ~~take~~ the air-conditioning Class B contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified air-conditioning Class C contractor is eligible to receive a certified air-conditioning Class A contractor license after passing or having previously passed ~~take~~ the air-conditioning Class A contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified air-conditioning Class B contractor is eligible to receive a certified air-conditioning Class A contractor license after passing or having previously passed ~~take~~ the air-conditioning Class A contractors' examination if he or she possesses a minimum of 1 year of proven experience in the classification in which he or she is certified.

6.a. An active certified swimming pool servicing contractor is eligible to receive a certified residential swimming pool contractor license after passing or having previously passed ~~take~~ the residential swimming pool contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified swimming pool servicing contractor is eligible to receive a certified commercial swimming pool contractor license after passing or having previously passed ~~take~~ the swimming pool commercial contractors' examination if he or she possesses a minimum of 4 years of proven experience in

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the classification in which he or she is certified.

c. An active certified residential swimming pool contractor is eligible to receive a certified commercial swimming pool contractor license after passing or having previously passed ~~take~~ the commercial swimming pool contractors' examination if he or she possesses a minimum of 1 year of proven experience in the classification in which he or she is certified.

d. An applicant is eligible to receive a certified swimming pool/spa servicing contractor license after passing or having previously passed ~~take~~ the swimming pool/spa servicing contractors' examination if he or she has satisfactorily completed 60 hours of instruction in courses related to the scope of work covered by that license and approved by the Construction Industry Licensing Board by rule and has at least 1 year of proven experience related to the scope of work of such a contractor.

Section 80. Subsection (1) of section 489.113, Florida Statutes, is amended to read:

489.113 Qualifications for practice; restrictions.—

(1) Any person who desires to engage in contracting on a statewide basis shall, as a prerequisite thereto, establish his or her competency and qualifications to be certified pursuant to this part. To establish competency, a person shall pass the appropriate examination approved by the board and certified by the department. If an applicant has received a baccalaureate degree in building construction from an accredited 4-year college, or a related degree as approved by the board by rule, and has a grade point average of 3.5 or higher, such applicant is not required to pass such examination. Any person who desires


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to engage in contracting on other than a statewide basis shall, as a prerequisite thereto, be registered pursuant to this part, unless exempted by this part.

Section 81. Subsection (3) of section 489.115, Florida Statutes, is amended to read:

489.115 Certification and registration; endorsement; reciprocity; renewals; continuing education.—

(3) The board shall certify as qualified for certification by endorsement any applicant who:

(a) Meets the requirements for certification as set forth in this section; has passed a national, regional, state, or United States territorial licensing examination that is substantially equivalent to the examination required by this part; and has satisfied the requirements set forth in s. 489.111;

(b) Holds a valid license to practice contracting issued by another state or territory of the United States, if the criteria for issuance of such license were substantially equivalent to Florida's current certification criteria; ~~or~~

(c) Holds a valid, current license to practice contracting issued by another state or territory of the United States, if the state or territory has entered into a reciprocal agreement with the board for the recognition of contractor licenses issued in that state, based on criteria for the issuance of such licenses that are substantially equivalent to the criteria for certification in this state; or

(d) Has held a valid, current license to practice contracting issued by another state or territory of the United States for at least 10 years before the date of application and

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is applying for the same or similar license in this state, subject to subsections (5)-(9). The board may consider whether such applicant has had a license to practice contracting revoked, suspended, or otherwise acted against by the licensing authority of another state, territory, or country. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active. Division I contractors and roofing contractors must complete a 2-hour course on the Florida Building Code which includes information on wind mitigation techniques. The required courses may be completed online.

Section 82. Subsection (5) of section 489.511, Florida Statutes, is amended to read:

489.511 Certification; application; examinations; endorsement.—

(5) The board shall certify as qualified for certification by endorsement any individual applying for certification who:

(a) Meets the requirements for certification as set forth in this section; has passed a national, regional, state, or United States territorial licensing examination that is substantially equivalent to the examination required by this part; and has satisfied the requirements set forth in s. 489.521; ~~or~~

(b) Holds a valid license to practice electrical or alarm system contracting issued by another state or territory of the United States, if the criteria for issuance of such license was substantially equivalent to the certification criteria that existed in this state at the time the certificate was issued; or

(c) Has held a valid, current license to practice

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electrical or alarm system contracting issued by another state or territory of the United States for at least 10 years before the date of application and is applying for the same or similar license in this state, subject to ss. 489.510 and 489.521(3)(a), and subparagraph (1)(b)1. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active. Electrical contractors and alarm system contractors must complete a 2-hour course on the Florida Building Code which includes information on wind mitigation techniques. The required courses may be completed online.

Section 83. Subsection (3) and paragraph (b) of subsection (4) of section 489.517, Florida Statutes, are amended to read:

489.517 Renewal of certificate or registration; continuing education.—

(3)(a) Each certificateholder or registrant licensed as a specialty contractor or an alarm system contractor shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 7 ~~14~~ classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall by rule establish criteria for the approval of continuing education courses and providers and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(b) Each certificateholder or registrant licensed as an electrical contractor shall provide proof, in a form established by rule of the board, that the certificateholder or registrant


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has completed at least 11 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall by rule establish criteria for the approval of continuing education courses and providers and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(4)

(b) 1. For licensed specialty contractors or alarm system contractors, of the 7 ~~14~~ classroom hours of continuing education required, at least 1 hour ~~7 hours~~ must be on technical subjects, 1 hour on workers' compensation, 1 hour on workplace safety, 1 hour on business practices, and ~~for alarm system contractors and electrical contractors engaged in alarm system contracting,~~ 2 hours on false alarm prevention.

2. For licensed electrical contractors, of the minimum 11 classroom hours of continuing education required, at least 7 hours must be on technical subjects, 1 hour on workers' compensation, 1 hour on workplace safety, and 1 hour on business practices. Electrical contractors engaged in alarm system contracting must also complete 2 hours on false alarm prevention.

Section 84. Paragraph (b) of subsection (1) of section 489.518, Florida Statutes, is amended to read:

489.518 Alarm system agents.—

(1) A licensed electrical or alarm system contractor may not employ a person to perform the duties of a burglar alarm system agent unless the person:

(b) Has successfully completed a minimum of 14 hours of

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training within 90 days after employment, to include basic alarm system electronics in addition to related training including CCTV and access control training, with at least 2 hours of training in the prevention of false alarms. Such training shall be from a board-approved provider, and the employee or applicant for employment shall provide proof of successful completion to the licensed employer. The board shall by rule establish criteria for the approval of training courses and providers and may by rule establish criteria for accepting alternative nonclassroom education on an hour-for-hour basis. The board shall approve providers that conduct training in other than the English language. The board shall establish a fee for the approval of training providers or courses, not to exceed $60. Qualified employers may conduct training classes for their employees, with board approval.

Section 85. Section 492.104, Florida Statutes, is amended, to read:

492.104 Rulemaking authority.—The Board of Professional Geologists has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter. Every licensee shall be governed and controlled by this chapter and the rules adopted by the board. The board is authorized to set, by rule, fees for application, examination, ~~certificate of authorization,~~ late renewal, initial licensure, and license renewal. These fees may ~~should~~ not exceed the cost of implementing the application, examination, initial licensure, and license renewal or other administrative process and shall be established as follows:

(1) The application fee shall not exceed $150 and shall be nonrefundable.


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(2) The examination fee shall not exceed $250, and the fee may be apportioned to each part of a multipart examination. The examination fee shall be refundable in whole or part if the applicant is found to be ineligible to take any portion of the licensure examination.

(3) The initial license fee shall not exceed $100.

(4) The biennial renewal fee shall not exceed $150.

~~(5) The fee for a certificate of authorization shall not exceed $350 and the fee for renewal of the certificate shall not exceed $350.~~

(5)~~(6)~~ The fee for reactivation of an inactive license may ~~shall~~ not exceed $50.

(6)~~(7)~~ The fee for a provisional license may ~~shall~~ not exceed $400.

(7)~~(8)~~ The fee for application, examination, and licensure for a license by endorsement is ~~shall be~~ as provided in this section for licenses in general.

Section 86. Subsection (1) of section 492.108, Florida Statutes, is amended to read:

492.108 Licensure by endorsement; requirements; fees.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting an application fee, has been certified by the board that he or she:

(a) Has met the qualifications for licensure in s. 492.105(1)(b)-(e) and:~~.~~

1.~~(b)~~ Is the holder of an active license in good standing in a state, trust, territory, or possession of the United States.

2. ~~(c)~~ Was licensed through written examination in at least one state, trust, territory, or possession of the United States, the examination requirements of which have been approved by the board as substantially equivalent to or more stringent than those of this state, and has received a score on such examination which is equal to or greater than the score required by this state for licensure by examination.

3. ~~(d)~~ Has taken and successfully passed the laws and rules portion of the examination required for licensure as a professional geologist in this state.

(b) Has held a valid license to practice geology in another state, trust, territory, or possession of the United States for at least 10 years before the date of application and has successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the examination required by the department. If such applicant has met the requirements for a license by endorsement except successful completion of an examination that is equivalent to or more stringent than the examination required by the board, such applicant may take the examination required by the board. Such application must be submitted to the board while the applicant holds a valid license in another state or territory or within 2 years after the expiration of such license.

Section 87. Section 492.111, Florida Statutes, is amended to read:

492.111 Practice of professional geology by a firm, corporation, or partnership~~; certificate of authorization~~.—The practice of, or offer to practice, professional geology by individual professional geologists licensed under the provisions


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of this chapter through a firm, corporation, or partnership offering geological services to the public through individually licensed professional geologists as agents, employees, officers, or partners thereof is permitted subject to the provisions of this chapter, if ~~provided that~~:

(1) At all times that it offers geological services to the public, the firm, corporation, or partnership is qualified by ~~has on file with the department the name and license number of~~ one or more individuals who hold a current, active license as a professional geologist in the state and are serving as a geologist of record for the firm, corporation, or partnership. A geologist of record may be any principal officer or employee of such firm or corporation, or any partner or employee of such partnership, who holds a current, active license as a professional geologist in this state, or any other Florida-licensed professional geologist with whom the firm, corporation, or partnership has entered into a long-term, ongoing relationship, as defined by rule of the board, to serve as one of its geologists of record. ~~It shall be the responsibility of the firm, corporation, or partnership and~~ The geologist of record shall ~~to~~ notify the department of any changes in the relationship or identity of that geologist of record within 30 days after such change.

~~(2) The firm, corporation, or partnership has been issued a certificate of authorization by the department as provided in this chapter. For purposes of this section, a certificate of authorization shall be required of any firm, corporation, partnership, association, or person practicing under a fictitious name and offering geological services to the public;~~

~~except that, when an individual is practicing professional geology in her or his own name, she or he shall not be required to obtain a certificate of authorization under this section. Such certificate of authorization shall be renewed every 2 years.~~

(2)~~(3)~~ All final geological papers or documents involving the practice of the profession of geology which have been prepared or approved for the use of such firm, corporation, or partnership, for delivery to any person for public record with the state, shall be dated and bear the signature and seal of the professional geologist or professional geologists who prepared or approved them.

(3)~~(4)~~ Except as provided in s. 558.0035, the fact that a licensed professional geologist practices through a corporation or partnership does not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by her or him. The partnership and all partners are jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a corporation is personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by her or him or committed by any person under her or his direct supervision and control, while rendering professional services on behalf of the corporation. The personal liability of a shareholder of a corporation, in her or his capacity as shareholder, may be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The corporation is liable up to the full value of its property for


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any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on behalf of the corporation in the rendering of professional services.

~~(5) The firm, corporation, or partnership desiring a certificate of authorization shall file with the department an application therefor, upon a form to be prescribed by the department, accompanied by the required application fee.~~

~~(6) The department may refuse to issue a certificate of authorization if any facts exist which would entitle the department to suspend or revoke an existing certificate of authorization or if the department, after giving persons involved a full and fair hearing, determines that any of the officers or directors of said firm or corporation, or partners of said partnership, have violated the provisions of s. 492.113.~~

Section 88. Subsection (4) of section 492.113, Florida Statutes, is amended to read:

492.113 Disciplinary proceedings.—

(4) The department shall reissue the license of a disciplined professional geologist ~~or business~~ upon certification by the board that the disciplined person has complied with ~~all of~~ the terms and conditions set forth in the final order.

Section 89. Section 492.115, Florida Statutes, is amended to read:

492.115 Roster of licensed professional geologists.—A roster showing the names and places of business or residence of all licensed professional geologists and all properly qualified firms, corporations, or partnerships practicing ~~holding~~

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~~certificates of authorization to practice~~ professional geology in the state shall be prepared annually by the department. A copy of this roster must be made available to ~~shall be obtainable by~~ each licensed professional geologist and each firm, corporation, or partnership qualified by a professional geologist ~~holding a certificate of authorization~~, and copies thereof shall be placed on file with the department.

Section 90. Section 509.102, Florida Statutes, is created to read:

509.102 Mobile food dispensing vehicles; preemption.—

(1) As used in this section, the term "mobile food dispensing vehicle" means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

(2) Regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees is preempted to the state. A municipality, county, or other local governmental entity may not require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle within the entity's jurisdiction. A municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's jurisdiction.

(3) This section may not be construed to affect a


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municipality, county, or other local governmental entity's authority to regulate the operation of mobile food dispensing vehicles other than the regulations described in subsection (2).

Section 91. Paragraph (i) of subsection (2) of section 548.003, Florida Statutes, is amended to read:

548.003 Florida State Boxing Commission.—

(2) The Florida State Boxing Commission, as created by subsection (1), shall administer the provisions of this chapter. The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter and to implement each of the duties and responsibilities conferred upon the commission, including, but not limited to:

~~(i) Designation and duties of a knockdown timekeeper.~~

Section 92. Subsection (1) of section 548.017, Florida Statutes, is amended to read:

548.017 Participants, managers, and other persons required to have licenses.—

(1) A participant, manager, trainer, second, ~~timekeeper,~~ referee, judge, ~~announcer,~~ physician, matchmaker, or promoter must be licensed before directly or indirectly acting in such capacity in connection with any match involving a participant. A physician approved by the commission must be licensed pursuant to chapter 458 or chapter 459, must maintain an unencumbered license in good standing, and must demonstrate satisfactory medical training or experience in boxing, or a combination of both, to the executive director before working as the ringside physician.

Section 93. Paragraph (d) of subsection (1) of section 553.5141, Florida Statutes, is amended to read:

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553.5141 Certifications of conformity and remediation plans.—

(1) For purposes of this section:

(d) "Qualified expert" means:

1. An engineer licensed pursuant to chapter 471.

2. A certified general contractor licensed pursuant to chapter 489.

3. A certified building contractor licensed pursuant to chapter 489.

4. A building code administrator licensed pursuant to chapter 468.

5. A building inspector licensed pursuant to chapter 468.

6. A plans examiner licensed pursuant to chapter 468.

7. An interior designer registered ~~licensed~~ pursuant to chapter 481.

8. An architect licensed pursuant to chapter 481.

9. A landscape architect licensed pursuant to chapter 481.

10. Any person who has prepared a remediation plan related to a claim under Title III of the Americans with Disabilities Act, 42 U.S.C. s. 12182, that has been accepted by a federal court in a settlement agreement or court proceeding, or who has been qualified as an expert in Title III of the Americans with Disabilities Act, 42 U.S.C. s. 12182, by a federal court.

Section 94. Effective January 1, 2021, subsection (1) of section 553.74, Florida Statutes, is amended to read:

553.74 Florida Building Commission.—

(1) The Florida Building Commission is created and located within the Department of Business and Professional Regulation for administrative purposes. Members are appointed by the


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Governor subject to confirmation by the Senate. The commission is composed of 19 ~~27~~ members, consisting of the following members:

(a) One architect licensed pursuant to chapter 481 with at least 5 years of experience in the design and construction of buildings designated for Group E or Group I occupancies by the Florida Building Code ~~registered to practice in this state and actively engaged in the profession~~. The American Institute of Architects, Florida Section, is encouraged to recommend a list of candidates for consideration.

(b) One structural engineer registered to practice in this state and actively engaged in the profession. The Florida Engineering Society is encouraged to recommend a list of candidates for consideration.

(c) One air-conditioning contractor, ~~or~~ mechanical contractor, or mechanical engineer certified to do business in this state and actively engaged in the profession. The Florida Air Conditioning Contractors Association, the Florida Refrigeration and Air Conditioning Contractors Association, ~~and~~ the Mechanical Contractors Association of Florida, and the Florida Engineering Society are encouraged to recommend a list of candidates for consideration.

(d) One electrical contractor or electrical engineer certified to do business in this state and actively engaged in the profession. The Florida Association of Electrical Contractors, ~~and~~ the National Electrical Contractors Association, Florida Chapter, and the Florida Engineering Society are encouraged to recommend a list of candidates for consideration.


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~~(e) One member from fire protection engineering or technology who is actively engaged in the profession. The Florida Chapter of the Society of Fire Protection Engineers and the Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.~~

(e) ~~(f)~~ One certified general contractor or one certified building contractor certified to do business in this state and actively engaged in the profession. The Associated Builders and Contractors of Florida, the Florida Associated General Contractors Council, the Florida Home Builders Association, and the Union Contractors Association are encouraged to recommend a list of candidates for consideration.

(f) ~~(g)~~ One plumbing contractor licensed to do business in this state and actively engaged in the profession. The Florida Association of Plumbing, Heating, and Cooling Contractors is encouraged to recommend a list of candidates for consideration.

(g) ~~(h)~~ One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession. The Florida Roofing, Sheet Metal, and Air Conditioning Contractors Association and the Sheet Metal and Air Conditioning Contractors' National Association are encouraged to recommend a list of candidates for consideration.

(h) ~~(i)~~ One certified residential contractor licensed to do business in this state and actively engaged in the profession. The Florida Home Builders Association is encouraged to recommend a list of candidates for consideration.

(i) ~~(j)~~ Three members who are municipal, county, or district codes enforcement officials, one of whom is also a fire official. The Building Officials Association of Florida and the


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Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.

~~(k) One member who represents the Department of Financial Services.~~

~~(l) One member who is a county codes enforcement official. The Building Officials Association of Florida is encouraged to recommend a list of candidates for consideration.~~

(j) ~~(m)~~ One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state which complies with or is certified to be compliant with the requirements of the Americans with Disability Act of 1990, as amended.

(k) ~~(n)~~ One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry. The Florida Manufactured Housing Association is encouraged to recommend a list of candidates for consideration.

~~(o) One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession. The Florida Engineering Society is encouraged to recommend a list of candidates for consideration.~~

~~(p) One member who is a representative of a municipality or a charter county. The Florida League of Cities and the Florida Association of Counties are encouraged to recommend a list of candidates for consideration.~~

(l) ~~(q)~~ One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry. The Florida Building Material


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Association, the Florida Concrete and Products Association, and the Fenestration Manufacturers Association are encouraged to recommend a list of candidates for consideration.

(m) ~~(r)~~ One member who is a representative of the building owners and managers industry who is actively engaged in commercial building ownership or management. The Building Owners and Managers Association is encouraged to recommend a list of candidates for consideration.

(n) ~~(s)~~ One member who is a representative of the insurance industry. The Florida Insurance Council is encouraged to recommend a list of candidates for consideration.

~~(t) One member who is a representative of public education.~~

(o) ~~(u)~~ One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession. The Florida Swimming Pool Association and the United Pool and Spa Association are encouraged to recommend a list of candidates for consideration.

(p) ~~(v)~~ One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED).

(q) ~~(w)~~ One member who is a representative of a natural gas distribution system and who is actively engaged in the distribution of natural gas in this state. The Florida Natural Gas Association is encouraged to recommend a list of candidates for consideration.


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~~(x) One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy. The Commissioner of Agriculture is encouraged to recommend a list of candidates for consideration.~~

~~(y) One member who shall be the chair.~~

Section 95. Subsections (5) and (6) are added to section 823.15, Florida Statutes, to read:

823.15 Dogs and cats released from animal shelters or animal control agencies; sterilization requirement.—

(5) Employees, agents, or contractors of a public or private animal shelter, a humane organization, or an animal control agency operated by a humane organization or by a county, municipality, or other incorporated political subdivision may implant dogs and cats with radio frequency identification microchips as part of their work with such public or private animal shelter, humane organization, or animal control agency.

(6) Notwithstanding s. 474.2165, employees, agents, or contractors of a public or private animal shelter, a humane organization, or an animal control agency operated by a humane organization or by a county, municipality, or other incorporated political subdivision may contact the owner of record listed on a radio frequency identification microchip to verify pet ownership.

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

And the title is amended as follows:

Delete lines 37 - 205

and insert:

creating s. 455.2278, F.S.; defining terms;


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prohibiting the department or a board from suspending or revoking a person's license solely on the basis of a delinquency or default in the payment of his or her student loan; prohibiting the department or a board from suspending or revoking a person's license solely on the basis of a default in satisfying the requirements of his or her work-conditional scholarship; amending s. 456.072, F.S.; specifying that the failure to repay certain student loans is not considered a failure to perform a statutory or legal obligation for which certain disciplinary action can be taken; conforming provisions to changes made by the act; repealing s. 456.0721, F.S., relating to health care practitioners who are in default on student loan or scholarship obligations; amending s. 456.074, F.S.; deleting a provision relating to the suspension of a license issued by the Department of Health for defaulting on certain student loans; amending s. 468.385, F.S.; revising requirements relating to businesses auctioning or offering to auction property in this state; amending s. 468.401, F.S.; revising definitions; repealing ss. 468.402, 468.403, 468.404, and 468.405, F.S., relating to duties and authority of the Department of Business and Professional Regulation with regard to licensure of talent agencies, licensure requirements, license fees and renewals, and qualification for a talent agency license, respectively; amending s. 468.406, F.S.; requiring an owner or operator of a talent agency to post an


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itemized schedule of fees, charges, and commissions in a specified place; repealing s. 468.407, F.S., relating to the form and posting requirements for a license; amending s. 468.408, F.S.; conforming provisions to changes made by the act; prohibiting certain bonds from being issued or renewed by a bonding agency to an owner or operator of a talent agency unless the bonding agency verifies that each owner or operator has not been convicted of specified crimes; amending s. 468.409, F.S.; deleting a requirement for record inspection; amending s. 468.410, F.S.; deleting a requirement to include specified information in a contract between a talent agency and applicant; amending s. 468.412, F.S.; deleting recordkeeping and posting requirements; amending s. 468.413, F.S.; revising criminal penalties; conforming provisions to changes made by the act; repealing s. 468.414, F.S., relating to the deposit of certain funds in the Professional Regulation Trust Fund; amending s. 468.415, F.S.; prohibiting any agent, owner, or operator who commits sexual misconduct in the operation of a talent agency from acting as an agent, owner, or operator of a Florida talent agency; amending s. 468.505, F.S.; providing that certain unlicensed persons are not prohibited or restricted from his or her practice, services, or activities in dietetics and nutrition under certain circumstances; amending 468.524, F.S.; deleting specified exemptions from the time


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restriction for an employee leasing company to reapply for licensure; amending s. 468.603, F.S.; revising which inspectors are included in the definition of the term "categories of building code inspectors"; amending s. 468.609, F.S.; revising certain experience requirements for a person to take the examination for certification; revising the time period a provisional certificate is valid; amending s. 468.613, F.S.; providing for waiver of specified requirements for certification under certain circumstances; amending s. 468.8314, F.S.; requiring an applicant for a license by endorsement to maintain a specified insurance policy; requiring the department to certify an applicant who holds a specified license issued by another state or territory of the United States under certain circumstances; amending s. 471.015, F.S.; revising licensure requirements for engineers who hold specified licenses in another state; amending s. 473.308, F.S.; deleting continuing education requirements for license by endorsement for certified public accountants; amending s. 474.202, F.S.; revising the definition of the term "limited-service veterinary medical practice" to include certain procedures; amending s. 474.207, F.S.; revising education requirements for licensure by examination; amending s. 474.217, F.S.; requiring the department to issue a license by endorsement to certain applicants who successfully complete a specified examination; amending s. 476.114, F.S.; revising training


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requirements for licensure as a barber; amending s. 476.144, F.S.; requiring the department to certify as qualified for licensure by endorsement an applicant who is licensed to practice barbering in another state; amending s. 477.013, F.S.; revising the definition of the term "hair braiding"; repealing s. 477.0132, F.S., relating to registration for hair braiding, hair wrapping, and body wrapping; amending s. 477.0135, F.S.; providing additional exemptions from license or registration requirements for specified occupations or practices; amending s. 477.019, F.S.; deleting a provision prohibiting the Board of Cosmetology from asking for proof of certain educational hours under certain circumstances; conforming provisions to changes made by the act; amending s. 477.0201, F.S.; providing requirements for registration as a specialist; amending s. 477.026, F.S.; conforming provisions to changes made by the act; amending s. 477.0263, F.S.; providing that certain cosmetology services may be performed in a location other than a licensed salon under certain circumstances; amending ss. 477.0265 and 477.029, F.S.; conforming provisions to changes made by the act; amending s. 481.201, F.S.; deleting legislative findings relating to the practice of interior design; amending s. 481.203, F.S.; revising and deleting definitions; amending s. 481.205, F.S.; conforming provisions to changes made by the act; amending s. 481.207, F.S.; revising certain fees for interior


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designers; conforming provisions to changes made by the act; amending s. 481.209, F.S.; providing requirements for a certificate of registration and a seal for interior designers; specifying certain persons who are already licensed as an interior designer is eligible to obtain a certificate of registration; conforming provisions to changes made by the act; amending s. 481.213, F.S.; revising requirements for certification of licensure by endorsement for a certain licensee to engage in the practice of architecture; providing that a registration is not required for specified persons to practice; conforming provisions to changes made by the act; amending s. 481.2131, F.S.; requiring certain interior designers to include a specified seal when submitting documents for the issuance of a building permit; amending s. 481.215, F.S.; conforming provisions to changes made by the act; revising the number of hours of specified courses the board must require for the renewal of a license or certificate of registration; authorizing licensees to complete certain courses online; amending s. 481.217, F.S.; conforming provisions to changes made by the act; amending s. 481.219, F.S.; deleting provisions permitting the practice of or offer to practice interior design through certain business organizations; deleting provisions requiring certificates of authorization for certain business organizations offering interior design services to the


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public; requiring a licensee or applicant in the practice of architecture to qualify as a business organization; providing requirements; amending s. 481.221, F.S.; conforming provisions to changes made by the act; requiring registered architects and certain business organizations to display certain license numbers in specified advertisements; amending s. 481.223, F.S.; providing construction; conforming provisions to changes made by the act; amending s. 481.2251, F.S.; revising the acts that constitute grounds for disciplinary actions relating to interior designers; conforming provisions to changes made by the act; amending ss. 481.229 and 481.231, F.S.; conforming provisions to changes made by the act; amending s. 481.303, F.S.; deleting the definition of the term "certificate of authorization"; amending s. 481.310, F.S.; providing that an applicant who holds certain degrees is not required to demonstrate 1 year of practical experience for licensure; amending s. 481.311, F.S.; revising requirements for certification of licensure by endorsement for a certain applicant to engage in the practice of landscape architecture; amending s. 481.313, F.S.; authorizing a landscape architect to receive hour-for-hour credit for certain approved continuing education courses under certain circumstances; amending s. 481.317, F.S.; conforming provisions to changes made by the act; amending s. 481.319, F.S.; deleting the requirement for a certificate of authorization; authorizing landscape


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architects to practice in the name of a corporation or partnership; amending s. 481.321, F.S.; requiring a landscape architect to display a certain certificate number in specified advertisements; amending s. 481.329, F.S.; conforming a cross-reference; amending s. 489.103, F.S.; revising certain contract prices for exemption; amending s. 489.111, F.S.; revising provisions relating to eligibility for licensure; amending s. 489.113, F.S.; providing that applicants who meet certain requirements are not required to pass a specified examination; amending s. 489.115, F.S.; requiring the Construction Industry Licensing Board to certify any applicant who holds a specified license to practice contracting issued by another state or territory of the United States under certain circumstances; requiring certain applicants to complete certain training; amending s. 489.511, F.S.; requiring the board to certify as qualified for certification by endorsement any applicant who holds a specified license to practice electrical or alarm system contracting issued by another state or territory of the United States under certain circumstances; requiring certain applicants to complete certain training; amending s. 489.517, F.S.; providing a reduction in certain continuing education hours required for certain contractors; amending s. 489.518, F.S.; requiring a person to have completed a specified amount of training within a certain time period to perform the duties of an alarm system agent;

amending s. 492.104, F.S.; conforming provisions to changes made by the act; amending 492.108, F.S.; requiring the department to issue a license by endorsement to any applicant who has held a specified license to practice geology in another state, trust, territory, or possession of the United States for a certain period of time; providing that an applicant may take the examination required by the board if they have not met the specified examination requirement; amending s. 492.111, F.S.; deleting the requirements for a certificate of authorization for a professional geologist; amending ss. 492.113 and 492.115, F.S.; conforming provisions to changes made by the act; creating s. 509.102; defining the term "mobile food dispensing vehicle"; preempting certain regulation of mobile food dispensing vehicles to the state; prohibiting certain entities from prohibiting mobile food dispensing vehicles from operating within the entirety of such entities' jurisdictions; providing construction; amending s. 548.003, F.S.; deleting the requirement that the Florida State Boxing Commission adopt rules relating to a knockdown timekeeper; amending s. 548.017, F.S.; deleting the licensure requirement for a timekeeper or an announcer; amending s. 553.5141, F.S.; conforming provisions to changes made by the act; amending s. 553.74, F.S.; revising the membership and qualifications of the Florida Building Commission; amending s. 823.15, F.S.; authorizing certain persons to implant dogs and cats


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with specified microchips under certain circumstances; authorizing certain persons to contact the owner of record listed on radio frequency identification microchips under certain circumstances; amending ss. 558.002,

By the Committees on Commerce and Tourism; and Innovation, Industry, and Technology; and Senator Albritton

577-03086-20 2020474c2

A bill to be entitled

An act relating to the deregulation of professions and occupations; providing a short title; amending s. 322.57, F.S.; defining the term "servicemember"; requiring the Department of Highway Safety and Motor Vehicles to waive the requirement to pass the Commercial Driver License Skills Tests for certain servicemembers and veterans; requiring an applicant who receives such waiver to complete certain requirements within a specified time; requiring the department to adopt rules; amending s. 326.004, F.S.; deleting the requirement that a yacht broker maintain a separate license for each branch office; deleting the requirement that the Division of Florida Condominiums, Timeshares, and Mobile Homes establish a fee; amending s. 447.02, F.S.; conforming provisions to changes made by the act; repealing s. 447.04, F.S., relating to licensure and permit requirements for business agents; repealing s. 447.041, F.S., relating to hearings for persons or labor organizations denied licensure as a business agent; repealing s. 447.045, F.S., relating to confidential information obtained during the application process; repealing s. 447.06, F.S., relating to required registration of labor organizations; amending s. 447.09, F.S.; deleting certain prohibited actions relating to the right of franchise of a member of a labor organization; repealing s. 447.12, F.S., relating to registration fees; repealing s. 447.16, F.S., relating to

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applicability; amending s. 447.305, F.S.; deleting a provision that requires notification of registrations and renewals to the Department of Business and Professional Regulation; amending s. 455.213, F.S.; requiring the department or a board to enter into reciprocal licensing agreements with other states under certain circumstances; providing requirements; amending s. 456.072, F.S.; specifying that the failure to repay certain student loans is not considered a failure to perform a statutory or legal obligation for which certain disciplinary action can be taken; conforming provisions to changes made by the act; repealing s. 456.0721, F.S., relating to health care practitioners who are in default on student loan or scholarship obligations; amending s. 456.074, F.S.; deleting a provision relating to the suspension of a license issued by the Department of Health for defaulting on certain student loans; amending s. 468.385, F.S.; revising requirements relating to businesses auctioning or offering to auction property in this state; amending s. 468.603, F.S.; revising which inspectors are included in the definition of the term "categories of building code inspectors"; amending s. 468.613, F.S.; providing for waiver of specified requirements for certification under certain circumstances; amending s. 468.8314, F.S.; requiring an applicant for a license by endorsement to maintain a specified insurance policy; requiring the department to certify an applicant who holds a specified license

issued by another state or territory of the United States under certain circumstances; amending s. 471.015, F.S.; revising licensure requirements for engineers who hold specified licenses in another state; amending s. 473.308, F.S.; deleting continuing education requirements for license by endorsement for certified public accountants; amending s. 474.202, F.S.; revising the definition of the term "limited-service veterinary medical practice" to include certain procedures; amending s. 474.207, F.S.; revising education requirements for licensure by examination; amending s. 474.217, F.S.; requiring the department to issue a license by endorsement to certain applicants who successfully complete a specified examination; amending s. 476.114, F.S.; revising training requirements for licensure as a barber; amending s. 476.144, F.S.; requiring the department to certify as qualified for licensure by endorsement an applicant who is licensed to practice barbering in another state; amending s. 477.013, F.S.; revising the definition of the term "hair braiding"; repealing s. 477.0132, F.S., relating to registration for hair braiding, hair wrapping, and body wrapping; amending s. 477.0135, F.S.; providing additional exemptions from license or registration requirements for specified occupations or practices; amending s. 477.019, F.S.; deleting a provision prohibiting the Board of Cosmetology from asking for proof of certain educational hours under certain circumstances;

revising requirements for certification of licensure by endorsement for a certain applicant to engage in the practice of cosmetology; conforming provisions to changes made by the act; amending s. 477.0201, F.S.; providing requirements for registration as a specialist; amending s. 477.026, F.S.; conforming provisions to changes made by the act; amending s. 477.0263, F.S.; providing that certain cosmetology services may be performed in a location other than a licensed salon under certain circumstances; amending ss. 477.0265 and 477.029, F.S.; conforming provisions to changes made by the act; amending s. 481.201, F.S.; deleting legislative findings relating to the practice of interior design; amending s. 481.203, F.S.; revising and deleting definitions; amending s. 481.205, F.S.; conforming provisions to changes made by the act; amending s. 481.207, F.S.; revising certain fees for interior designers; conforming provisions to changes made by the act; amending s. 481.209, F.S.; providing requirements for a certificate of registration and a seal for interior designers; conforming provisions to changes made by the act; amending s. 481.213, F.S.; revising requirements for certification of licensure by endorsement for a certain licensee to engage in the practice of architecture; providing that a registration is not required for specified persons to practice; conforming provisions to changes made by the act; amending s. 481.2131, F.S.; requiring certain

interior designers to include a specified seal when submitting documents for the issuance of a building permit; amending s. 481.215, F.S.; conforming provisions to changes made by the act; revising the number of hours of specified courses the board must require for the renewal of a license or certificate of registration; authoring licensees to complete certain courses online; amending s. 481.217, F.S.; conforming provisions to changes made by the act; amending s. 481.219, F.S.; deleting provisions permitting the practice of or offer to practice interior design through certain business organizations; deleting provisions requiring certificates of authorization for certain business organizations offering interior design services to the public; requiring a licensee or applicant in the practice of architecture to qualify as a business organization; providing requirements; amending s. 481.221, F.S.; conforming provisions to changes made by the act; requiring registered architects and certain business organizations to display certain license numbers in specified advertisements; amending s. 481.223, F.S.; providing construction; conforming provisions to changes made by the act; amending s. 481.2251, F.S.; revising the acts that constitute grounds for disciplinary actions relating to interior designers; conforming provisions to changes made by the act; amending ss. 481.229 and 481.231, F.S.; conforming provisions to changes made by the act; amending s. 481.303, F.S.; deleting the

definition of the term "certificate of authorization"; amending s. 481.310, F.S.; providing that an applicant who holds certain degrees is not required to demonstrate 1 year of practical experience for licensure; amending s. 481.311, F.S.; revising requirements for certification of licensure by endorsement for a certain applicant to engage in the practice of landscape architecture; amending s. 481.313, F.S.; authorizing a landscape architect to receive hour-for-hour credit for certain approved continuing education courses under certain circumstances; amending s. 481.317, F.S.; conforming provisions to changes made by the act; amending s. 481.319, F.S.; deleting the requirement for a certificate of authorization; authorizing landscape architects to practice in the name of a corporation or partnership; amending s. 481.321, F.S.; requiring a landscape architect to display a certain certificate number in specified advertisements; amending s. 481.329, F.S.; conforming a cross-reference; amending s. 489.103, F.S.; revising certain contract prices for exemption; amending s. 489.111, F.S.; revising provisions relating to eligibility for licensure; amending s. 489.115, F.S.; requiring the Construction Industry Licensing Board to certify any applicant who holds a specified license to practice contracting issued by another state or territory of the United States under certain circumstances; requiring such applicant to complete certain training by a specified

time after receiving a license; amending s. 489.511, F.S.; requiring the board to certify as qualified for certification by endorsement any applicant who holds a specified license to practice electrical or alarm system contracting issued by another state or territory of the United States under certain circumstances; requiring such applicant to complete certain training by a specified time after receiving a license; amending s. 489.517, F.S.; providing a reduction in certain continuing education hours required for certain contractors; amending s. 489.518, F.S.; requiring a person to have completed a specified amount of training within a certain time period to perform the duties of an alarm system agent; creating s. 509.102; defining the term "mobile food dispensing vehicle"; preempting certain regulation of mobile food dispensing vehicles to the state; prohibiting certain entities from prohibiting mobile food dispensing vehicles from operating within the entirety of such entities' jurisdictions; providing construction; amending s. 548.003, F.S.; deleting the requirement that the Florida State Boxing Commission adopt rules relating to a knockdown timekeeper; amending s. 548.017, F.S.; deleting the licensure requirement for a timekeeper or an announcer; amending s. 553.5141, F.S.; conforming provisions to changes made by the act; amending s. 553.74, F.S.; revising the membership and qualifications of the Florida Building Commission; amending s. 823.15, F.S.; authorizing certain persons

to implant dogs and cats with specified microchips under certain circumstances; amending ss. 558.002, 559.25, and 287.055, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. This act may be cited as the "Occupational Freedom and Opportunity Act."

Section 2. Present subsection (4) of section 322.57, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read

322.57 Tests of knowledge concerning specified vehicles; endorsement; nonresidents; violations.—

(4)(a) As used in this subsection, the term "servicemember" means a member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, the Florida National Guard, or the Florida Air National Guard.

(b) The department shall waive the requirement to pass the Commercial Driver License Skills Tests for servicemembers and veterans if:

1. The applicant has been honorably discharged from military service within 1 year of the application, if the applicant is a veteran;

2. The applicant is trained as an MOS 88M Army Motor Transport Operator or similar military job specialty;

3. The applicant has received training to operate large trucks in compliance with the Federal Motor Carrier Safety

Administration; and

4. The applicant has at least 2 years of experience in the military driving vehicles that would require a commercial driver license to operate.

(c) An applicant must complete every other requirement for a commercial driver license within 1 year of receiving a waiver under paragraph (b) or the waiver is invalid.

(d) The department shall adopt rules to administer this subsection.

Section 3. Subsection (13) of section 326.004, Florida Statutes, is amended to read:

326.004 Licensing.—

(13) Each broker must maintain a principal place of business in this state and may establish branch offices in the state. ~~A separate license must be maintained for each branch office. The division shall establish by rule a fee not to exceed $100 for each branch office license.~~

Section 4. Subsection (3) of section 447.02, Florida Statutes, is amended to read:

447.02 Definitions.—The following terms, when used in this chapter, shall have the meanings ascribed to them in this section:

~~(3) The term "department" means the Department of Business and Professional Regulation.~~

Section 5. Section 447.04, Florida Statutes, is repealed.

Section 6. Section 447.041, Florida Statutes, is repealed.

Section 7. Section 447.045, Florida Statutes, is repealed.

Section 8. Section 447.06, Florida Statutes, is repealed.

Section 9. Subsections (6) and (8) of section 447.09,

Florida Statutes, are amended to read:

447.09 Right of franchise preserved; penalties.—It shall be unlawful for any person:

~~(6) To act as a business agent without having obtained and possessing a valid and subsisting license or permit.~~

~~(8) To make any false statement in an application for a license.~~

Section 10. Section 447.12, Florida Statutes, is repealed.

Section 11. Section 447.16, Florida Statutes, is repealed.

Section 12. Subsection (4) of section 447.305, Florida Statutes, is amended to read:

447.305 Registration of employee organization.—

~~(4) Notification of registrations and renewals of registration shall be furnished at regular intervals by the commission to the Department of Business and Professional Regulation.~~

Section 13. Subsection (14) is added to section 455.213, Florida Statutes, to read:

455.213 General licensing provisions.—

(14) The department or a board must enter into a reciprocal licensing agreement with other states if the practice act within the purview of this chapter permits such agreement. If a reciprocal licensing agreement exists or if the department or board has determined another state's licensing requirements or examinations to be substantially equivalent or more stringent to those under the practice act, the department or board must post on its website which jurisdictions have such reciprocal licensing agreements or substantially similar licenses.

Section 14. Paragraph (k) of subsection (1) of section

456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan is not ~~or failing to comply with service scholarship obligations shall be~~ considered a failure to perform a statutory or legal obligation~~, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount~~. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

Section 15. Section 456.0721, Florida Statutes, is repealed.

Section 16. Subsection (4) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

~~(4) Upon receipt of information that a Florida-licensed health care practitioner has defaulted on a student loan issued or guaranteed by the state or the Federal Government, the department shall notify the licensee by certified mail that he or she shall be subject to immediate suspension of license~~

~~unless, within 45 days after the date of mailing, the licensee provides proof that new payment terms have been agreed upon by all parties to the loan. The department shall issue an emergency order suspending the license of any licensee who, after 45 days following the date of mailing from the department, has failed to provide such proof. Production of such proof shall not prohibit the department from proceeding with disciplinary action against the licensee pursuant to s. 456.073.~~

Section 17. Paragraph (b) of subsection (7) of section 468.385, Florida Statutes, is amended to read:

468.385 Licenses required; qualifications; examination.—

(7)

(b) A ~~No~~ business may not ~~shall~~ auction or offer to auction any property in this state unless it is owned by an auctioneer who is licensed ~~as an auction business~~ by the department ~~board~~ or is exempt from licensure under this act. Each application for licensure must ~~shall~~ include the names of the owner and the business, the business mailing address and location, and any other information which the board may require. The owner of an auction business shall report to the board within 30 days of any change in this required information.

Section 18. Paragraph (f) of subsection (5) of section 468.603, Florida Statutes, is amended to read:

468.603 Definitions.—As used in this part:

(5) "Categories of building code inspectors" include the following:

(f) "Residential ~~One and two family dwelling~~ inspector" means a person who is qualified to inspect and determine that one-family, two-family, or three-family residences not exceeding

two habitable stories above no more than one uninhabitable story and accessory use structures in connection therewith ~~one and two family dwellings and accessory structures~~ are constructed in accordance with the provisions of the governing building, plumbing, mechanical, accessibility, and electrical codes.

Section 19. Section 468.613, Florida Statutes, is amended to read:

468.613 Certification by endorsement.—The board shall examine other certification or training programs, as applicable, upon submission to the board for its consideration of an application for certification by endorsement. The board shall waive its examination, qualification, education, or training requirements, to the extent that such examination, qualification, education, or training requirements of the applicant are determined by the board to be comparable with those established by the board. The board shall waive its examination, qualification, education, or training requirements if an applicant for certification by endorsement is at least 18 years of age; is of good moral character; has held a valid building administrator, inspector, plans examiner, or the equivalent, certification issued by another state or territory of the United States for at least 10 years before the date of application; and has successfully passed an applicable examination administered by the International Code Council. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active.

Section 20. Subsection (3) of section 468.8314, Florida Statutes, is amended to read:

468.8314 Licensure.—

(3) The department shall certify as qualified for a license by endorsement an applicant who is of good moral character as determined in s. 468.8313, who maintains an insurance policy as required by s. 468.8322, and who:~~:~~

(a) Holds a valid license to practice home inspection services in another state or territory of the United States, whose educational requirements are substantially equivalent to those required by this part; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by this part; or

(b) Has held a valid license to practice home inspection services issued by another state or territory of the United States for at least 10 years before the date of application. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active.

Section 21. Subsection (5) of section 471.015, Florida Statutes, is amended to read:

471.015 Licensure.—

(5)(a) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 10 ~~15~~ years ~~and has had 20 years of continuous professional level engineering experience~~.

(b) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially

equivalent to the fundamentals examination and the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 15 ~~25~~ years ~~and has had 30 years of continuous professional-level engineering experience~~.

Section 22. Subsection (7) of section 473.308, Florida Statutes, is amended to read:

473.308 Licensure.—

(7) The board shall certify as qualified for a license by endorsement an applicant who:

(a)~~1.~~ Is not licensed and has not been licensed in another state or territory and who has met the requirements of this section for education, work experience, and good moral character and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or ~~and~~

~~2. Has completed such continuing education courses as the board deems appropriate, within the limits for each applicable 2-year period as set forth in s. 473.312, but at least such courses as are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement; or~~

(b)1.~~a.~~ Holds a valid license to practice public accounting issued by another state or territory of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued;

2.~~b.~~ Holds a valid license to practice public accounting

issued by another state or territory of the United States but the criteria for issuance of such license did not meet the requirements of subparagraph 1. ~~sub-subparagraph a.~~; has met the requirements of this section for education, work experience, and good moral character; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

3.~~c.~~ Holds a valid license to practice public accounting issued by another state or territory of the United States for at least 10 years before the date of application; has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; and has met the requirements of this section for good moral character~~; and~~

~~2. Has completed continuing education courses that are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement~~.

Section 23. Subsection (6) of section 474.202, Florida Statutes, is amended to read:

474.202 Definitions.—As used in this chapter:

(6) "Limited-service veterinary medical practice" means offering or providing veterinary services at any location that has a primary purpose other than that of providing veterinary medical service at a permanent or mobile establishment permitted by the board; provides veterinary medical services for privately owned animals that do not reside at that location; operates for

a limited time; and provides limited types of veterinary medical services, including vaccinations or immunizations against disease, preventative procedures for parasitic control, and microchipping.

Section 24. Paragraph (b) of subsection (2) of section 474.207, Florida Statutes, is amended to read:

474.207 Licensure by examination.—

(2) The department shall license each applicant who the board certifies has:

(b)1. Graduated from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education; or

2. Graduated from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World and obtained a certificate from the Education Commission for Foreign Veterinary Graduates or the Program for the Assessment of Veterinary Education Equivalence.

The department shall not issue a license to any applicant who is under investigation in any state or territory of the United States or in the District of Columbia for an act which would constitute a violation of this chapter until the investigation is complete and disciplinary proceedings have been terminated, at which time the provisions of s. 474.214 shall apply.

Section 25. Subsection (1) of section 474.217, Florida Statutes, is amended to read:

474.217 Licensure by endorsement.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting

a fee set by the board, demonstrates to the board that she or he:

(a) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of veterinary medicine in this state; and

(b)1. ~~Either~~ Holds, and has held for the 3 years immediately preceding the application for licensure, a valid, active license to practice veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States, provided that the applicant has successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the examination required by the board ~~requirements for licensure in the issuing state, district, or territory are equivalent to or more stringent than the requirements of this chapter~~; or

2. Meets the qualifications of s. 474.207(2)(b) and has successfully completed a state, regional, national, or other examination which is equivalent to or more stringent than the examination given by the department and has passed the board's clinical competency examination or another clinical competency examination specified by rule of the board.

Section 26. Subsection (2) of section 476.114, Florida Statutes, is amended to read:

476.114 Examination; prerequisites.—

(2) An applicant shall be eligible for licensure by examination to practice barbering if the applicant:

(a) Is at least 16 years of age;

(b) Pays the required application fee; and

(c)1. Holds an active valid license to practice barbering

in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or

2. Has received a minimum of 900 ~~1,200~~ hours of training in sanitation, safety, and laws and rules, as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

a. A school of barbering licensed pursuant to chapter 1005;

b. A barbering program within the public school system; or

c. A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 600 ~~1,000~~ actual school hours. If the person passes the examination, she or he shall have satisfied this requirement; but if the person fails the examination, she or he shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 27. Subsection (5) of section 476.144, Florida Statutes, is amended to read:

476.144 Licensure.—

(5) The board shall certify as qualified for licensure by endorsement as a barber in this state an applicant who holds a current active license to practice barbering in another state. The board shall adopt rules specifying procedures for the licensure by endorsement of practitioners desiring to be licensed in this state who hold a current active license in

another ~~state or~~ country and who have met qualifications substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state.

Section 28. Subsection (9) of section 477.013, Florida Statutes, is amended to read:

477.013 Definitions.—As used in this chapter:

(9) "Hair braiding" means the weaving or interweaving of natural human hair or commercial hair, including the use of hair extensions or wefts, for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment ~~and does not include the use of hair extensions or wefts~~.

Section 29. Section 477.0132, Florida Statutes, is repealed.

Section 30. Subsections (7) through (10) are added to section 477.0135, Florida Statutes, to read:

477.0135 Exemptions.—

(7) A license or registration is not required for a person whose occupation or practice is confined solely to hair braiding as defined in s. 477.013(9).

(8) A license or registration is not required for a person whose occupation or practice is confined solely to hair wrapping as defined in s. 477.013(10).

(9) A license or registration is not required for a person whose occupation or practice is confined solely to body wrapping as defined in s. 477.013(12).

(10) A license or registration is not required for a person whose occupation or practice is confined solely to applying polish to fingernails and toenails.

Section 31. Subsections (6) and (7) of section 477.019,

Florida Statutes, are amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(6) The board shall certify as qualified for licensure by endorsement as a cosmetologist in this state an applicant who holds a current active license to practice cosmetology in another state and who has completed a 2-hour course approved by the board on human immunodeficiency virus and acquired immune deficiency syndrome. ~~The board may not require proof of educational hours if the license was issued in a state that requires 1,200 or more hours of prelicensure education and passage of a written examination. This subsection does not apply to applicants who received their license in another state through an apprenticeship program.~~

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 10 ~~16~~ hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and

environmental issues. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.

(b) ~~Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.~~

~~(c)~~ The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.

Section 32. Subsection (1) of section 477.0201, Florida Statutes, is amended to read:

477.0201 Specialty registration; qualifications; registration renewal; endorsement.—

(1) Any person is qualified for registration as a specialist in any ~~one or more of the~~ specialty practice ~~practices~~ within the practice of cosmetology under this chapter who:

(a) Is at least 16 years of age or has received a high school diploma.

(b) Has received a certificate of completion for: ~~in a~~

1. One hundred and eighty hours of training, as established by the board, which shall focus primarily on sanitation and safety, to practice specialties as defined in s. 477.013(6)(a) and (b); ~~specialty pursuant to s. 477.013(6)~~

2. Two hundred and twenty hours of training, as established by the board, which shall focus primarily on sanitation and

safety, to practice the specialty as defined in s. 477.013(6)(c); or

3. Four hundred hours of training or the number of hours of training required to maintain minimum Pell Grant requirements, as established by the board, which shall focus primarily on sanitation and safety, to practice the specialties as defined in s. 477.013(6)(a)-(c).

(c) The certificate of completion specified in paragraph (b) must be from one of the following:

1. A school licensed pursuant to s. 477.023.

2. A school licensed pursuant to chapter 1005 or the equivalent licensing authority of another state.

3. A specialty program within the public school system.

4. A specialty division within the Cosmetology Division of the Florida School for the Deaf and the Blind, provided the training programs comply with minimum curriculum requirements established by the board.

Section 33. Paragraph (f) of subsection (1) of section 477.026, Florida Statutes, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

~~(f) For hair braiders, hair wrappers, and body wrappers, fees for registration shall not exceed $25.~~

Section 34. Subsection (4) of section 477.0263, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

477.0263 Cosmetology services to be performed in licensed salon; exceptions.—

(4) Pursuant to rules adopted by the board, any cosmetology or specialty service may be performed in a location other than a licensed salon when the service is performed in connection with a special event and is performed by a person ~~who is employed by a licensed salon and~~ who holds the proper license or specialty registration. ~~An appointment for the performance of any such service in a location other than a licensed salon must be made through a licensed salon.~~

(5) Hair shampooing, hair cutting, hair arranging, makeup application, nail polish removal, nail filing, nail buffing, and nail cleansing may be performed in a location other than a licensed salon when the service is performed by a person who holds the proper license.

Section 35. Paragraph (f) of subsection (1) of section 477.0265, Florida Statutes, is amended to read:

477.0265 Prohibited acts.—

(1) It is unlawful for any person to:

(f) Advertise or imply that skin care services ~~or body wrapping~~, as performed under this chapter, have any relationship to the practice of massage therapy as defined in s. 480.033(3), except those practices or activities defined in s. 477.013.

Section 36. Paragraph (a) of subsection (1) of section 477.029, Florida Statutes, is amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a cosmetologist or~~,~~ specialist~~, hair wrapper, hair braider, or body wrapper~~ unless duly licensed or registered, or otherwise authorized, as provided in this chapter.

Section 37. Section 481.201, Florida Statutes, is amended to read:

481.201 Purpose.—The primary legislative purpose for enacting this part is to ensure that every architect practicing in this state meets minimum requirements for safe practice. It is the legislative intent that architects who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. ~~The Legislature further finds that it is in the interest of the public to limit the practice of interior design to interior designers or architects who have the design education and training required by this part or to persons who are exempted from the provisions of this part.~~

Section 38. Section 481.203, Florida Statutes, is amended to read:

481.203 Definitions.—As used in this part, the term:

(3) ~~(1)~~ "Board" means the Board of Architecture and Interior Design.

(7) ~~(2)~~ "Department" means the Department of Business and Professional Regulation.

(1) ~~(3)~~ "Architect" or "registered architect" means a natural person who is licensed under this part to engage in the practice of architecture.

(5) ~~(4)~~ "Certificate of registration" means a license or registration issued by the department to a natural person to engage in the practice of architecture or interior design.

(4) ~~(5)~~ "Business organization" means a partnership, a limited liability company, a corporation, or an individual operating under a fictitious name ~~"Certificate of authorization"~~

~~means a certificate issued by the department to a corporation or partnership to practice architecture or interior design~~.

(2) ~~(6)~~ "Architecture" means the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.

(16) ~~(7)~~ "Townhouse" is a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units. Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of construction and fire protection requirements; or shall be separated by a party wall; or may be separated by a single wall meeting the following requirements:

(a) Such wall shall provide not less than 2 hours of fire resistance. Plumbing, piping, ducts, or electrical or other building services shall not be installed within or through the 2-hour wall unless such materials and methods of penetration have been tested in accordance with the Standard Building Code.

(b) Such wall shall extend from the foundation to the underside of the roof sheathing, and the underside of the roof shall have at least 1 hour of fire resistance for a width not less than 4 feet on each side of the wall.

(c) Each dwelling unit sharing such wall shall be designed and constructed to maintain its structural integrity independent of the unit on the opposite side of the wall.

(10)~~(8)~~ "Interior design" means designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements of a building or structure. "Interior design" includes, but is not limited to, reflected ceiling plans, space planning, furnishings, and the fabrication of nonstructural elements within and surrounding interior spaces of buildings. "Interior design" specifically excludes the design of or the responsibility for architectural and engineering work, except for specification of fixtures and their location within interior spaces. As used in this subsection, "architectural and engineering interior construction relating to the building systems" includes, but is not limited to, construction of structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems, or construction which materially affects lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems.

(13)~~(9)~~ "Registered interior designer" ~~or "interior designer"~~ means a natural person who holds a valid certificate of registration to practice interior design ~~is licensed under this part~~.

(11)~~(10)~~ "Nonstructural element" means an element which

does not require structural bracing and which is something other than a load-bearing wall, load-bearing column, or other load-bearing element of a building or structure which is essential to the structural integrity of the building.

(12)~~(11)~~ "Reflected ceiling plan" means a ceiling design plan which is laid out as if it were projected downward and which may include lighting and other elements.

(15)~~(12)~~ "Space planning" means the analysis, programming, or design of spatial requirements, including preliminary space layouts and final planning.

(6)~~(13)~~ "Common area" means an area that is held out for use by all tenants or owners in a multiple-unit dwelling, including, but not limited to, a lobby, elevator, hallway, laundry room, clubhouse, or swimming pool.

(8)~~(14)~~ "Diversified interior design experience" means experience which substantially encompasses the various elements of interior design services set forth under the definition of "interior design" in subsection (10)~~(8)~~.

(9)~~(15)~~ "Interior decorator services" includes the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes.

(14)~~(16)~~ "Responsible supervising control" means the exercise of direct personal supervision and control throughout the preparation of documents, instruments of service, or any other work requiring the seal and signature of a licensee under this part.

Section 39. Paragraph (a) of subsection (3) of section 481.205, Florida Statutes, is amended to read:

481.205 Board of Architecture and Interior Design.—

(3)(a) Notwithstanding the provisions of ss. 455.225, 455.228, and 455.32, the duties and authority of the department to receive complaints and investigate and discipline persons licensed or registered under this part, including the ability to determine legal sufficiency and probable cause; to initiate proceedings and issue final orders for summary suspension or restriction of a license or certificate of registration pursuant to s. 120.60(6); to issue notices of noncompliance, notices to cease and desist, subpoenas, and citations; to retain legal counsel, investigators, or prosecutorial staff in connection with the licensed practice of architecture or registered ~~and~~ interior design; and to investigate and deter the unlicensed practice of architecture ~~and interior design~~ as provided in s. 455.228 are delegated to the board. All complaints and any information obtained pursuant to an investigation authorized by the board are confidential and exempt from s. 119.07(1) as provided in s. 455.225(2) and (10).

Section 40. Section 481.207, Florida Statutes, is amended to read:

481.207 Fees.—The board, by rule, may establish ~~separate~~ fees for architects and registered interior designers, to be paid for applications, examination, reexamination, licensing and renewal, delinquency, reinstatement, and recordmaking and recordkeeping. The examination fee shall be in an amount that covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to

sit for the examination. The application fee is nonrefundable. The fee for initial application and examination for architects ~~and interior designers~~ may not exceed $775 plus the actual per applicant cost to the department for purchase of the examination from the National Council of Architectural Registration Boards ~~or the National Council of Interior Design Qualifications, respectively,~~ or similar national organizations. The initial nonrefundable fee for registered interior designers may not exceed $75. The biennial renewal fee for architects may not exceed $200. The biennial renewal fee for registered interior designers may not exceed $75 ~~$500~~. The delinquency fee may not exceed the biennial renewal fee established by the board for an active license. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of architects and registered interior designers. Fees shall be based on department estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of architects and interior designers.

Section 41. Section 481.209, Florida Statutes, is amended to read:

481.209 Examinations.—

(1) A person desiring to be licensed as a registered architect by initial examination shall apply to the department, complete the application form, and remit a nonrefundable application fee. The department shall license any applicant who the board certifies~~:~~

~~(a)~~ has passed the licensure examination prescribed by

board rule~~;~~ and

~~(b)~~ is a graduate of a school or college of architecture with a program accredited by the National Architectural Accreditation Board.

(2) A person seeking to obtain a certificate of registration as a registered interior designer and a seal pursuant to s. 481.221 must provide the department with his or her name and address and written proof that he or she has successfully passed the qualification examination prescribed by the Council for Interior Design Qualification or its successor entity or the California Council for Interior Design Certification or its successor entity, or has successfully passed an equivalent exam as determined by the department ~~A person desiring to be licensed as a registered interior designer shall apply to the department for licensure. The department shall administer the licensure examination for interior designers to each applicant who has completed the application form and remitted the application and examination fees specified in s. 481.207 and who the board certifies:~~

~~(a) Is a graduate from an interior design program of 5 years or more and has completed 1 year of diversified interior design experience;~~

~~(b) Is a graduate from an interior design program of 4 years or more and has completed 2 years of diversified interior design experience;~~

~~(c) Has completed at least 3 years in an interior design curriculum and has completed 3 years of diversified interior design experience; or~~

~~(d) Is a graduate from an interior design program of at~~

~~least 2 years and has completed 4 years of diversified interior design experience.~~

~~Subsequent to October 1, 2000, for the purpose of having the educational qualification required under this subsection accepted by the board, the applicant must complete his or her education at a program, school, or college of interior design whose curriculum has been approved by the board as of the time of completion. Subsequent to October 1, 2003, all of the required amount of educational credits shall have been obtained in a program, school, or college of interior design whose curriculum has been approved by the board, as of the time each educational credit is gained. The board shall adopt rules providing for the review and approval of programs, schools, and colleges of interior design and courses of interior design study based on a review and inspection by the board of the curriculum of programs, schools, and colleges of interior design in the United States, including those programs, schools, and colleges accredited by the Foundation for Interior Design Education Research. The board shall adopt rules providing for the review and approval of diversified interior design experience required by this subsection~~.

Section 42. Section 481.213, Florida Statutes, is amended to read:

481.213 Licensure and registration.—

(1) The department shall license or register any applicant who the board certifies is qualified for licensure or registration and who has paid the initial licensure or registration fee. Licensure as an architect under this section

shall be deemed to include all the rights and privileges of registration ~~licensure~~ as an interior designer under this section.

(2) The board shall certify for licensure or registration by examination any applicant who passes the prescribed licensure or registration examination and satisfies the requirements of ss. 481.209 and 481.211, for architects, or the requirements of s. 481.209, for interior designers.

(3) The board shall certify as qualified for a license by endorsement as an architect or registration as a registered ~~an~~ interior designer an applicant who:

(a) Qualifies to take the prescribed licensure or registration examination, and has passed the prescribed licensure registration examination or a substantially equivalent examination in another jurisdiction, as set forth in s. 481.209 for architects or registered interior designers, as applicable, and has satisfied the internship requirements set forth in s. 481.211 for architects;

(b) Holds a valid license to practice architecture or a license, registration, or certification to practice interior design issued by another jurisdiction of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued; ~~provided, however, that an applicant who has been licensed for use of the title "interior design" rather than licensed to practice interior design shall not qualify hereunder;~~ or

(c) Has passed the prescribed licensure examination and holds a valid certificate issued by the National Council of

Architectural Registration Boards, and holds a valid license to practice architecture issued by another state or jurisdiction of the United States.

An architect who is licensed in another state who seeks qualification for license by endorsement under this subsection must complete a class approved by the board on the Florida Building Code.

(4) The board may refuse to certify any applicant who has violated any of the provisions of s. 481.223, s. 481.225, or s. 481.2251, as applicable.

(5) The board may refuse to certify any applicant who is under investigation in any jurisdiction for any act which would constitute a violation of this part or of chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

(6) The board shall adopt rules to implement the provisions of this part relating to the examination, internship, and licensure of applicants.

(7) For persons whose licensure requires satisfaction of the requirements of ss. 481.209 and 481.211, the board shall, by rule, establish qualifications for certification of such persons as special inspectors of threshold buildings, as defined in ss. 553.71 and 553.79, and shall compile a list of persons who are certified. A special inspector is not required to meet standards for certification other than those established by the board, and the fee owner of a threshold building may not be prohibited from selecting any person certified by the board to be a special inspector. The board shall develop minimum qualifications for

the qualified representative of the special inspector who is authorized under s. 553.79 to perform inspections of threshold buildings on behalf of the special inspector.

(8) A certificate of registration is not required for a person whose occupation or practice is confined to interior decorator services or for a person whose occupation or practice is confined to interior design except as required in this part.

Section 43. Subsection (1) of section 481.2131, Florida Statutes, is amended to read:

481.2131 Interior design; practice requirements; disclosure of compensation for professional services.—

(1) A registered interior designer is authorized to perform "interior design" as defined in s. 481.203. Interior design documents prepared by a registered interior designer shall contain a statement that the document is not an architectural or engineering study, drawing, specification, or design and is not to be used for construction of any load-bearing columns, load-bearing framing or walls of structures, or issuance of any building permit, except as otherwise provided by law. Interior design documents that are prepared and sealed by a registered interior designer must ~~may~~, if required by a permitting body, be accepted by the permitting body ~~be submitted~~ for the issuance of a building permit for interior construction excluding design of any structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems or that materially affect lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke

evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems. Interior design documents submitted for the issuance of a building permit by an individual performing interior design services who is not a licensed architect must include a seal issued by the department and in conformance with the requirements of s. 481.221.

Section 44. Section 481.215, Florida Statutes, is amended to read:

481.215 Renewal of license or certificate of registration.—

(1) Subject to the requirement of subsection (3), the department shall renew a license or certificate of registration upon receipt of the renewal application and renewal fee.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses and certificates of registration.

(3) A ~~No~~ license or certificate of registration renewal may not ~~shall~~ be issued to an architect or a registered ~~an~~ interior designer by the department until the licensee or registrant submits proof satisfactory to the department that, during the 2 years before ~~prior to~~ application for renewal, the licensee or registrant participated per biennium in not less than 20 hours of at least 50 minutes each per biennium of continuing education approved by the board. The board shall approve only continuing education that builds upon the basic knowledge of architecture or interior design. The board may make exception from the requirements of continuing education in emergency or hardship cases.

(4) The board shall by rule establish criteria for the approval of continuing education courses and providers and shall

by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(5) For architects, the board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, 2 ~~a specified number of~~ hours in specialized or advanced courses~~, approved by the Florida Building Commission,~~ on any portion of the Florida Building Code, adopted pursuant to part IV of chapter 553, relating to the licensee's respective area of practice. Such hours count towards the continuing education hours required under subsection (3). A licensee may complete the courses required under this subsection online.

Section 45. Section 481.217, Florida Statutes, is amended to read:

481.217 Inactive status.—

(1) The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The rules may not require more than one renewal cycle of continuing education to reactivate a license or registration for a registered architect or registered interior designer. ~~For interior design, the board may approve only continuing education that builds upon the basic knowledge of interior design.~~

(2) The board shall adopt rules relating to application procedures for inactive status and for the reactivation of inactive licenses and registrations.

Section 46. Section 481.219, Florida Statutes, is amended to read:

481.219 Qualification of business organizations ~~certification of partnerships, limited liability companies, and corporations~~.—

(1) A licensee may ~~The practice of or the offer to~~ practice architecture ~~or interior design by licensees~~ through a qualified business organization that offers ~~corporation, limited liability company, or partnership offering~~ architectural ~~or interior design~~ services to the public~~, or by a corporation, limited liability company, or partnership offering architectural or interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted~~, subject to the provisions of this section.

(2) If a licensee or an applicant proposes to engage in the practice of architecture as a business organization, the licensee or applicant shall qualify the business organization upon approval of the board ~~For the purposes of this section, a certificate of authorization shall be required for a corporation, limited liability company, partnership, or person practicing under a fictitious name, offering architectural services to the public jointly or separately. However, when an individual is practicing architecture in her or his own name, she or he shall not be required to be certified under this section. Certification under this subsection to offer architectural services shall include all the rights and privileges of certification under subsection (3) to offer interior design services~~.

(3)(a) A business organization may not engage in the practice of architecture unless its qualifying agent is a registered architect under this part. A qualifying agent who terminates an affiliation with a qualified business organization shall immediately notify the department of such termination. If such qualifying agent is the only qualifying agent for that

business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination. Except as provided in paragraph (b), the business organization may not engage in the practice of architecture until it is qualified by another qualifying agent.

(b) In the event a qualifying agent ceases employment with a qualified business organization, the executive director or the chair of the board may authorize another registered architect employed by the business organization to temporarily serve as its qualifying agent for a period of no more than 60 days. The business organization is not authorized to operate beyond such period under this chapter absent replacement of the qualifying agent who has ceased employment.

(c) A qualifying agent shall notify the department in writing before engaging in the practice of architecture in her or his own name or in affiliation with a different business organization, and she or he or such business organization shall supply the same information to the department as required of applicants under this part.

~~(3) For the purposes of this section, a certificate of authorization shall be required for a corporation, limited liability company, partnership, or person operating under a fictitious name, offering interior design services to the public jointly or separately. However, when an individual is practicing interior design in her or his own name, she or he shall not be required to be certified under this section.~~

(4) All final construction documents and instruments of service which include drawings, specifications, plans, reports, or other papers or documents that involve ~~involving~~ the practice

of architecture which are prepared or approved for the use of the business organization ~~corporation, limited liability company, or partnership~~ and filed for public record within the state must ~~shall~~ bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.

(5) ~~All drawings, specifications, plans, reports, or other papers or documents prepared or approved for the use of the corporation, limited liability company, or partnership by an interior designer in her or his professional capacity and filed for public record within the state shall bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.~~

~~(6) The department shall issue a certificate of authorization to any applicant who the board certifies as qualified for a certificate of authorization and who has paid the fee set in s. 481.207.~~

~~(7)~~ The board shall allow a licensee or ~~certify~~ an applicant to qualify one or more business organizations ~~as qualified for a certificate of authorization~~ to offer architectural ~~or interior design~~ services, or to use a fictitious name to offer such services, if ~~provided that:~~

~~(a)~~ one or more of the principal officers of the corporation or limited liability company, or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as architects, are registered as provided by this part~~; or~~

~~(b) One or more of the principal officers of the~~

~~corporation or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as interior designers, are registered as provided by this part~~.

~~(8) The department shall adopt rules establishing a procedure for the biennial renewal of certificates of authorization.~~

~~(9) The department shall renew a certificate of authorization upon receipt of the renewal application and biennial renewal fee.~~

(6) ~~(10)~~ Each qualifying agent who qualifies a business organization, partnership, limited liability company, or ~~and~~ corporation certified under this section shall notify the department within 30 days after ~~of~~ any change in the information contained in the application upon which the qualification ~~certification~~ is based. Any registered architect or interior designer who qualifies the business organization shall ensure ~~corporation, limited liability company, or partnership as provided in subsection (7) shall be responsible for ensuring~~ responsible supervising control of projects of the business organization ~~entity~~ and shall notify the department of the ~~upon~~ termination of her or his employment with a business organization qualified ~~partnership, limited liability company, or corporation certified~~ under this section ~~shall notify the department of the termination~~ within 30 days after such termination.

(7) ~~(11)~~ A business organization is not ~~No corporation, limited liability company, or partnership shall be~~ relieved of responsibility for the conduct or acts of its agents, employees,

or officers by reason of its compliance with this section. However, except as provided in s. 558.0035, the architect who signs and seals the construction documents and instruments of service is ~~shall be~~ liable for the professional services performed, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be liable for the professional services performed.

~~(12) Disciplinary action against a corporation, limited liability company, or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered architect or interior designer, respectively.~~

(8) ~~(13)~~ ~~Nothing in~~ This section may not ~~shall~~ be construed to mean that a certificate of registration to practice architecture must ~~or interior design shall~~ be held by a business organization ~~corporation, limited liability company, or partnership~~. ~~Nothing in~~ This section does not prohibit a business organization from offering ~~prohibits corporations, limited liability companies, and partnerships from joining together to offer~~ architectural, engineering, ~~interior design,~~ surveying and mapping, and landscape architectural services, or any combination of such services, to the public if the business organization~~, provided that each corporation, limited liability company, or partnership~~ otherwise meets the requirements of law.

~~(14) Corporations, limited liability companies, or partnerships holding a valid certificate of authorization to practice architecture shall be permitted to use in their title the term "interior designer" or "registered interior designer."~~

Section 47. Subsections (5) and (10) of section 481.221,

Florida Statutes, are amended to read:

481.221 Seals; display of certificate number.—

(5) No registered interior designer shall affix, or permit to be affixed, her or his seal or signature to any plan, specification, drawing, or other document which depicts work which she or he is not competent or registered ~~licensed~~ to perform.

(10) Each registered architect must ~~or interior designer, and each corporation, limited liability company, or partnership holding a certificate of authorization, shall~~ include her or his license ~~its certificate~~ number in any newspaper, telephone directory, or other advertising medium used by the registered licensee. Each business organization must include the license number of the registered architect who serves as the qualifying agent for that business organization in any newspaper, telephone directory, or other advertising medium used by the business organization ~~architect, interior designer, corporation, limited liability company, or partnership. A corporation, limited liability company, or partnership is not required to display the certificate number of individual registered architects or interior designers employed by or working within the corporation, limited liability company, or partnership~~.

Section 48. Section 481.223, Florida Statutes, is amended to read:

481.223 Prohibitions; penalties; injunctive relief.—

(1) A person may not knowingly:

(a) Practice architecture unless the person is an architect or a registered architect; however, a licensed architect who has been licensed by the board and who chooses to relinquish or not

to renew his or her license may use the title "Architect, Retired" but may not otherwise render any architectural services.

~~(b) Practice interior design unless the person is a registered interior designer unless otherwise exempted herein; however, an interior designer who has been licensed by the board and who chooses to relinquish or not to renew his or her license may use the title "Interior Designer, Retired" but may not otherwise render any interior design services.~~

(b) ~~(c)~~ Use the name or title "architect," ~~or~~ "registered architect," or ~~"interior designer" or~~ "registered interior designer~~,~~" ~~or words to that effect,~~ when the person is not then the holder of a valid license or certificate of registration issued pursuant to this part. This paragraph does not restrict the use of the name or title "interior designer" or "interior design firm."

(c) ~~(d)~~ Present as his or her own the license of another.

(d) ~~(c)~~ Give false or forged evidence to the board or a member thereof.

(e) ~~(f)~~ Use or attempt to use an architect ~~or interior designer~~ license or interior design certificate of registration that has been suspended, revoked, or placed on inactive or delinquent status.

(f) ~~(g)~~ Employ unlicensed persons to practice architecture ~~or interior design~~.

(g) ~~(h)~~ Conceal information relative to violations of this part.

(2) Any person who violates any provision of subsection (1) commits a misdemeanor of the first degree, punishable as

provided in s. 775.082 or s. 775.083.

(3)(a) Notwithstanding chapter 455 or any other law to the contrary, an affected person may maintain an action for injunctive relief to restrain or prevent a person from violating paragraph (1)(a) or~~,~~ paragraph (1)(b)~~, or paragraph (1)(c)~~. The prevailing party is entitled to actual costs and attorney's fees.

(b) For purposes of this subsection, the term "affected person" means a person directly affected by the actions of a person suspected of violating paragraph (1)(a) or~~,~~ paragraph (1)(b)~~, or paragraph (1)(c)~~ and includes, but is not limited to, the department, any person who received services from the alleged violator, or any private association composed primarily of members of the profession the alleged violator is practicing or offering to practice or holding himself or herself out as qualified to practice.

Section 49. Section 481.2251, Florida Statutes, is amended to read:

481.2251 Disciplinary proceedings against registered interior designers.—

(1) The following acts constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to register ~~obtain, obtaining,~~ or renewing registration~~,~~ by bribery, by fraudulent misrepresentation, or through an error of the board~~, a license to practice interior design~~;

(b) Having an interior design license, certification, or registration ~~a license to practice interior design~~ revoked, suspended, or otherwise acted against, including the denial of

licensure, registration, or certification by the licensing authority of another jurisdiction for any act which would constitute a violation of this part or of chapter 455;

(c) Being convicted or found guilty~~, regardless of adjudication,~~ of a crime in any jurisdiction which directly relates to the provision of interior design services or to the ability to provide interior design services~~. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charges and the circumstances surrounding her or his plea~~;

(d) False, deceptive, or misleading advertising;

(e) ~~Failing to report to the board any person who the licensee knows is in violation of this part or the rules of the board;~~

~~(f) Aiding, assisting, procuring, or advising any unlicensed person to use the title "interior designer" contrary to this part or to a rule of the board;~~

~~(g) Failing to perform any statutory or legal obligation placed upon a registered interior designer;~~

~~(h)~~ Making or filing a report which the registrant ~~licensee~~ knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a registered interior designer;

(f)~~(i)~~ Making deceptive, untrue, or fraudulent

representations in the provision of interior design services;

(g) ~~(j)~~ Accepting and performing professional responsibilities which the registrant ~~licensee~~ knows or has reason to know that she or he is not competent ~~or licensed~~ to perform;

~~(k) Violating any provision of this part, any rule of the board, or a lawful order of the board previously entered in a disciplinary hearing;~~

~~(l) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services;~~

~~(m) Acceptance of compensation or any consideration by an interior designer from someone other than the client without full disclosure of the compensation or consideration amount or value to the client prior to the engagement for services, in violation of s. 481.2131(2);~~

(h) ~~(n)~~ Rendering or offering to render architectural services; or

(i) ~~(o)~~ Committing an act of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of interior design~~, including, but not limited to, allowing the preparation of any interior design studies, plans, or other instruments of service in an office that does not have a full-time Florida-registered interior designer assigned to such office or failing to exercise responsible supervisory control over services or projects, as required by board rule~~.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order

taking the following action or imposing one or more of the following penalties:

(a) Refusal to register the applicant ~~approve an application for licensure~~;

(b) Refusal to renew an existing registration ~~license~~;

(c) Removal from the state registry ~~Revocation or suspension of a license~~; or

(d) Imposition of an administrative fine not to exceed $500 ~~$1,000~~ for each violation or separate offense and a fine of up to $2,500 ~~$5,000~~ for matters pertaining to a material violation of the Florida Building Code as reported by a local jurisdiction~~; or~~

~~(e) Issuance of a reprimand~~.

Section 50. Paragraph (b) of subsection (5), and subsections (6), and (8) of section 481.229, Florida Statutes, are amended to read:

481.229 Exceptions; exemptions from licensure.—

(5)

(b) Notwithstanding any other provision of this part, all persons licensed as architects under this part shall be qualified for interior design registration ~~licensure~~ upon submission of a completed application for such license and a fee not to exceed $30. Such persons shall be exempt from the requirements of s. 481.209(2). For architects licensed as interior designers, satisfaction of the requirements for renewal of licensure as an architect under s. 481.215 shall be deemed to satisfy the requirements for renewal of registration ~~licensure~~ as an interior designer under that section. Complaint processing, investigation, or other discipline-related legal

costs related to persons licensed as interior designers under this paragraph shall be assessed against the architects' account of the Regulatory Trust Fund.

(6) This part shall not apply to~~:~~

~~(a) A person who performs interior design services or interior decorator services for any residential application, provided that such person does not advertise as, or represent himself or herself as, an interior designer. For purposes of this paragraph, "residential applications" includes all types of residences, including, but not limited to, residence buildings, single-family homes, multifamily homes, townhouses, apartments, condominiums, and domestic outbuildings appurtenant to one-family or two-family residences. However, "residential applications" does not include common areas associated with instances of multiple-unit dwelling applications.~~

~~(b)~~ an employee of a retail establishment providing "interior decorator services" on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, provided that such employee does not advertise as, or represent himself or herself as, an interior designer.

(8) A manufacturer of commercial food service equipment or the manufacturer's representative, distributor, or dealer or an employee thereof, who prepares designs, specifications, or layouts for the sale or installation of such equipment is exempt from licensure as an architect ~~or interior designer~~, if:

(a) The designs, specifications, or layouts are not used for construction or installation that may affect structural, mechanical, plumbing, heating, air conditioning, ventilating,

electrical, or vertical transportation systems.

(b) The designs, specifications, or layouts do not materially affect lifesafety systems pertaining to firesafety protection, smoke evacuation and compartmentalization, and emergency ingress or egress systems.

(c) Each design, specification, or layout document prepared by a person or entity exempt under this subsection contains a statement on each page of the document that the designs, specifications, or layouts are not architectural~~, interior design,~~ or engineering designs, specifications, or layouts and not used for construction unless reviewed and approved by a licensed architect or engineer.

Section 51. Subsection (1) of section 481.231, Florida Statutes, is amended to read:

481.231 Effect of part locally.—

(1) ~~Nothing in~~ This part does not ~~shall be construed to~~ repeal, amend, limit, or otherwise affect any specific provision of any local building code or zoning law or ordinance that has been duly adopted, now or hereafter enacted, which is more restrictive, with respect to the services of registered architects or registered interior designers, than ~~the provisions of~~ this part; provided, however, that a licensed architect shall be deemed registered ~~licensed~~ as an interior designer for purposes of offering or rendering interior design services to a county, municipality, or other local government or political subdivision.

Section 52. Section 481.303, Florida Statutes, is amended to read:

481.303 Definitions.—As used in this chapter, the term:

(1) "Board" means the Board of Landscape Architecture.

(3) ~~(2)~~ "Department" means the Department of Business and Professional Regulation.

(6) ~~(3)~~ "Registered landscape architect" means a person who holds a license to practice landscape architecture in this state under the authority of this act.

(2) ~~(4)~~ "Certificate of registration" means a license issued by the department to a natural person to engage in the practice of landscape architecture.

~~(5) "Certificate of authorization" means a license issued by the department to a corporation or partnership to engage in the practice of landscape architecture.~~

(4) ~~(6)~~ "Landscape architecture" means professional services, including, but not limited to, the following:

(a) Consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas, including the use of Florida-friendly landscaping as defined in s. 373.185, where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values;

(b) The determination of settings, grounds, and approaches for and the siting of buildings and structures, outdoor areas, or other improvements;

(c) The setting of grades, shaping and contouring of land

and water forms, determination of drainage, and provision for storm drainage and irrigation systems where such systems are necessary to the purposes outlined herein; and

(d) The design of such tangible objects and features as are necessary to the purpose outlined herein.

(5) ~~(7)~~ "Landscape design" means consultation for and preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects. Construction documents, details, and specifications for tangible objects and irrigation systems shall be designed or approved by licensed professionals as required by law.

Section 53. Section 481.310, Florida Statutes, is amended to read:

481.310 Practical experience requirement.—Beginning October 1, 1990, every applicant for licensure as a registered landscape architect shall demonstrate, prior to licensure, 1 year of practical experience in landscape architectural work. An applicant who holds a master of landscape architecture degree and a bachelor's degree in a related field is not required to demonstrate 1 year of practical experience in landscape architectural work to obtain licensure. The board shall adopt rules providing standards for the required experience. An applicant who qualifies for examination pursuant to s. 481.309(1)(b)1. may obtain the practical experience after completing the required professional degree. Experience used to qualify for examination pursuant to s. 481.309(1)(b)2. may not

be used to satisfy the practical experience requirement under this section.

Section 54. Subsections (3) and (4) of section 481.311, Florida Statutes, are amended, to read:

481.311 Licensure.—

(3) The board shall certify as qualified for a license by endorsement an applicant who~~:~~

~~(a) Qualifies to take the examination as set forth in s. 481.309; and has passed a national, regional, state, or territorial licensing examination which is substantially equivalent to the examination required by s. 481.309; or~~

~~(b)~~ holds a valid license to practice landscape architecture issued by another state or territory of the United States~~, if the criteria for issuance of such license were substantially identical to the licensure criteria which existed in this state at the time the license was issued~~.

~~(4) The board shall certify as qualified for a certificate of authorization any applicant corporation or partnership who satisfies the requirements of s. 481.319.~~

Section 55. Subsection (4) of section 481.313, Florida Statutes, is amended to read:

481.313 Renewal of license.—

(4) The board, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall establish criteria for the approval of continuing education courses and providers, and shall by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis. A landscape architect shall receive hour-for-hour credit for attending continuing education courses approved by the Landscape

Architecture Continuing Education System or another nationally recognized clearinghouse for continuing education that relate to and increase his or her basic knowledge of landscape architecture, as determined by the board, if the landscape architect submits proof satisfactory to the board that such course was approved by the Landscape Architecture Continuing Education System or another nationally recognized clearinghouse for continuing education, along with the syllabus or outline for such course and proof of course attendance.

Section 56. Subsection (2) of section 481.317, Florida Statutes, is amended to read:

481.317 Temporary certificates.—

~~(2) Upon approval by the board and payment of the fee set in s. 481.307, the department shall grant a temporary certificate of authorization for work on one specified project in this state for a period not to exceed 1 year to an out-of-state corporation, partnership, or firm, provided one of the principal officers of the corporation, one of the partners of the partnership, or one of the principals in the fictitiously named firm has obtained a temporary certificate of registration in accordance with subsection (1).~~

Section 57. Section 481.319, Florida Statutes, is amended to read:

481.319 Corporate and partnership practice of landscape architecture~~; certificate of authorization~~.—

(1) The practice of or offer to practice landscape architecture by registered landscape architects registered under this part through a corporation or partnership offering landscape architectural services to the public, or through a

corporation or partnership offering landscape architectural services to the public through individual registered landscape architects as agents, employees, officers, or partners, is permitted, subject to the provisions of this section, if:

(a) One or more of the principal officers of the corporation, or partners of the partnership, and all personnel of the corporation or partnership who act in its behalf as landscape architects in this state are registered landscape architects; and

(b) One or more of the officers, one or more of the directors, one or more of the owners of the corporation, or one or more of the partners of the partnership is a registered landscape architect~~; and~~

~~(c) The corporation or partnership has been issued a certificate of authorization by the board as provided herein~~.

(2) All documents involving the practice of landscape architecture which are prepared for the use of the corporation or partnership shall bear the signature and seal of a registered landscape architect.

(3) A landscape architect applying to practice in the name of a ~~An applicant~~ corporation must ~~shall~~ file with the department the names and addresses of all officers and board members of the corporation, including the principal officer or officers, duly registered to practice landscape architecture in this state and, also, of all individuals duly registered to practice landscape architecture in this state who shall be in responsible charge of the practice of landscape architecture by the corporation in this state. A landscape architect applying to practice in the name of a ~~An applicant~~ partnership must ~~shall~~

file with the department the names and addresses of all partners of the partnership, including the partner or partners duly registered to practice landscape architecture in this state and, also, of an individual or individuals duly registered to practice landscape architecture in this state who shall be in responsible charge of the practice of landscape architecture by said partnership in this state.

(4) Each landscape architect qualifying a partnership or ~~and~~ corporation ~~licensed~~ under this part must ~~shall~~ notify the department within 1 month after ~~of~~ any change in the information contained in the application upon which the license is based. Any landscape architect who terminates her or his ~~or her~~ employment with a partnership or corporation licensed under this part shall notify the department of the termination within 1 month after such termination.

(5) ~~Disciplinary action against a corporation or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered landscape architect.~~

~~(6)~~ Except as provided in s. 558.0035, the fact that a registered landscape architect practices landscape architecture through a corporation or partnership as provided in this section does not relieve the landscape architect from personal liability for her or his ~~or her~~ professional acts.

Section 58. Subsection (5) of section 481.321, Florida Statutes, is amended to read:

481.321 Seals; display of certificate number.—

(5) Each registered landscape architect must ~~and each corporation or partnership holding a certificate of~~

~~authorization shall~~ include her or his ~~its~~ certificate number in any newspaper, telephone directory, or other advertising medium used by the registered landscape architect, corporation, or partnership. A corporation or partnership must ~~is not required to~~ display the certificate number ~~numbers~~ of at least one officer, director, owner, or partner who is a ~~individual~~ registered landscape architect ~~architects~~ employed by or practicing with the corporation or partnership.

Section 59. Subsection (5) of section 481.329, Florida Statutes, is amended to read:

481.329 Exceptions; exemptions from licensure.—

(5) This part does not prohibit any person from engaging in the practice of landscape design, as defined in s. 481.303 ~~s. 481.303(7)~~, or from submitting for approval to a governmental agency planting plans that are independent of, or a component of, construction documents that are prepared by a Florida-registered professional. Persons providing landscape design services shall not use the title, term, or designation "landscape architect," "landscape architectural," "landscape architecture," "L.A.," "landscape engineering," or any description tending to convey the impression that she or he is a landscape architect unless she or he is registered as provided in this part.

Section 60. Subsection (9) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(9) Any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than $2,500

~~$1,000~~, but this exemption does not apply:

(a) If the construction, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than $2,500 ~~$1,000~~ for the purpose of evading this part or otherwise.

(b) To a person who advertises that he or she is a contractor or otherwise represents that he or she is qualified to engage in contracting.

Section 61. Subsection (2) of section 489.111, Florida Statutes, is amended to read:

489.111 Licensure by examination.—

(2) A person shall be eligible for licensure by examination if the person:

(a) Is 18 years of age;

(b) Is of good moral character; and

(c) Meets eligibility requirements according to one of the following criteria:

1. Has received a baccalaureate degree from an accredited 4-year college in the appropriate field of engineering, architecture, or building construction and has 1 year of proven experience in the category in which the person seeks to qualify. For the purpose of this part, a minimum of 2,000 person-hours shall be used in determining full-time equivalency.

2. Has a total of at least 4 years of active experience as a worker who has learned the trade by serving an apprenticeship as a skilled worker who is able to command the rate of a mechanic in the particular trade or as a foreman who is in charge of a group of workers and usually is responsible to a

superintendent or a contractor or his or her equivalent, provided, however, that at least 1 year of active experience shall be as a foreman.

3. Has a combination of not less than 1 year of experience as a foreman and not less than 3 years of credits for any accredited college-level courses; has a combination of not less than 1 year of experience as a skilled worker, 1 year of experience as a foreman, and not less than 2 years of credits for any accredited college-level courses; or has a combination of not less than 2 years of experience as a skilled worker, 1 year of experience as a foreman, and not less than 1 year of credits for any accredited college-level courses. All junior college or community college-level courses shall be considered accredited college-level courses.

4.a. An active certified residential contractor is eligible to receive a certified building contractor license after passing or having previously passed ~~take~~ the building contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified residential contractor is eligible to receive a certified general contractor license after passing or having previously passed ~~take~~ the general contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified building contractor is eligible to receive a certified general contractor license after passing or having previously passed ~~take~~ the general contractors'

examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

5.a. An active certified air-conditioning Class C contractor is eligible to receive a certified air-conditioning Class B contractor license after passing or having previously passed ~~take~~ the air-conditioning Class B contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified air-conditioning Class C contractor is eligible to receive a certified air-conditioning Class A contractor license after passing or having previously passed ~~take~~ the air-conditioning Class A contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified air-conditioning Class B contractor is eligible to receive a certified air-conditioning Class A contractor license after passing or having previously passed ~~take~~ the air-conditioning Class A contractors' examination if he or she possesses a minimum of 1 year of proven experience in the classification in which he or she is certified.

6.a. An active certified swimming pool servicing contractor is eligible to receive a certified residential swimming pool contractor license after passing or having previously passed ~~take~~ the residential swimming pool contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified swimming pool servicing contractor

is eligible to receive a certified commercial swimming pool contractor license after passing or having previously passed ~~take~~ the swimming pool commercial contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified residential swimming pool contractor is eligible to receive a certified commercial swimming pool contractor license after passing or having previously passed ~~take~~ the commercial swimming pool contractors' examination if he or she possesses a minimum of 1 year of proven experience in the classification in which he or she is certified.

d. An applicant is eligible to receive a certified swimming pool/spa servicing contractor license after passing or having previously passed ~~take~~ the swimming pool/spa servicing contractors' examination if he or she has satisfactorily completed 60 hours of instruction in courses related to the scope of work covered by that license and approved by the Construction Industry Licensing Board by rule and has at least 1 year of proven experience related to the scope of work of such a contractor.

Section 62. Subsection (3) of section 489.115, Florida Statutes, is amended to read:

489.115 Certification and registration; endorsement; reciprocity; renewals; continuing education.—

(3) The board shall certify as qualified for certification by endorsement any applicant who:

(a) Meets the requirements for certification as set forth in this section; has passed a national, regional, state, or United States territorial licensing examination that is

substantially equivalent to the examination required by this part; and has satisfied the requirements set forth in s. 489.111;

(b) Holds a valid license to practice contracting issued by another state or territory of the United States, if the criteria for issuance of such license were substantially equivalent to Florida's current certification criteria; ~~or~~

(c) Holds a valid, current license to practice contracting issued by another state or territory of the United States, if the state or territory has entered into a reciprocal agreement with the board for the recognition of contractor licenses issued in that state, based on criteria for the issuance of such licenses that are substantially equivalent to the criteria for certification in this state; or

(d) Has held a valid, current license to practice contracting issued by another state or territory of the United States for at least 10 years before the date of application and is applying for the same or similar license in this state, subject to subsections (5)-(9). The board may consider whether such applicant has had a license to practice contracting revoked, suspended, or otherwise acted against by the licensing authority of another state, territory, or country. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active. Within 30 days after receiving a license, the licensee must complete a board-approved 4-hour continuing education course on the Florida Building Code and a 1-hour course on the laws and rules of this state relating to contracting. The required courses may be completed online.

Section 63. Subsection (5) of section 489.511, Florida Statutes, is amended to read:

489.511 Certification; application; examinations; endorsement.—

(5) The board shall certify as qualified for certification by endorsement any individual applying for certification who:

(a) Meets the requirements for certification as set forth in this section; has passed a national, regional, state, or United States territorial licensing examination that is substantially equivalent to the examination required by this part; and has satisfied the requirements set forth in s. 489.521; ~~or~~

(b) Holds a valid license to practice electrical or alarm system contracting issued by another state or territory of the United States, if the criteria for issuance of such license was substantially equivalent to the certification criteria that existed in this state at the time the certificate was issued; or

(c) Has held a valid, current license to practice electrical or alarm system contracting issued by another state or territory of the United States for at least 10 years before the date of application and is applying for the same or similar license in this state, subject to ss. 489.510 and 489.521(3)(a), and subparagraph (1)(b)1. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active. Within 30 days after receiving a license, the licensee must complete a board-approved 4-hour continuing education course on the Florida Building Code and a 1-hour course on the laws and rules of this state relating to electrical and alarm system contracting. The

required courses may be completed online.

Section 64. Subsection (3) and paragraph (b) of subsection (4) of section 489.517, Florida Statutes, are amended to read:

489.517 Renewal of certificate or registration; continuing education.—

(3)(a) Each certificateholder or registrant licensed as a specialty contractor or an alarm system contractor shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 7 ~~14~~ classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall by rule establish criteria for the approval of continuing education courses and providers and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(b) Each certificateholder or registrant licensed as an electrical contractor shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 11 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall by rule establish criteria for the approval of continuing education courses and providers and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(4)

(b)1. For licensed specialty contractors or alarm system contractors, of the 7 ~~14~~ classroom hours of continuing education

required, at least 1 hour ~~7 hours~~ must be on technical subjects, 1 hour on workers' compensation, 1 hour on workplace safety, 1 hour on business practices, and ~~for alarm system contractors and electrical contractors engaged in alarm system contracting,~~ 2 hours on false alarm prevention.

2. For licensed electrical contractors, of the minimum 11 classroom hours of continuing education required, at least 7 hours must be on technical subjects, 1 hour on workers' compensation, 1 hour on workplace safety, and 1 hour on business practices. Electrical contractors engaged in alarm system contracting must also complete 2 hours on false alarm prevention.

Section 65. Paragraph (b) of subsection (1) of section 489.518, Florida Statutes, is amended to read:

489.518 Alarm system agents.—

(1) A licensed electrical or alarm system contractor may not employ a person to perform the duties of a burglar alarm system agent unless the person:

(b) Has successfully completed a minimum of 14 hours of training within 90 days after employment, to include basic alarm system electronics in addition to related training including CCTV and access control training, with at least 2 hours of training in the prevention of false alarms. Such training shall be from a board-approved provider, and the employee or applicant for employment shall provide proof of successful completion to the licensed employer. The board shall by rule establish criteria for the approval of training courses and providers and may by rule establish criteria for accepting alternative nonclassroom education on an hour-for-hour basis. The board

shall approve providers that conduct training in other than the English language. The board shall establish a fee for the approval of training providers or courses, not to exceed $60. Qualified employers may conduct training classes for their employees, with board approval.

Section 66. Section 509.102, Florida Statutes, is created to read:

509.102 Mobile food dispensing vehicles; preemption.—

(1) As used in this section, the term "mobile food dispensing vehicle" means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

(2) Regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees is preempted to the state. A municipality, county, or other local governmental entity may not require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle within the entity's jurisdiction. A municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's jurisdiction.

(3) This section may not be construed to affect a municipality, county, or other local governmental entity's authority to regulate the operation of mobile food dispensing

vehicles other than the regulations described in subsection (2).

Section 67. Paragraph (i) of subsection (2) of section 548.003, Florida Statutes, is amended to read:

548.003 Florida State Boxing Commission.—

(2) The Florida State Boxing Commission, as created by subsection (1), shall administer the provisions of this chapter. The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter and to implement each of the duties and responsibilities conferred upon the commission, including, but not limited to:

~~(i) Designation and duties of a knockdown timekeeper.~~

Section 68. Subsection (1) of section 548.017, Florida Statutes, is amended to read:

548.017 Participants, managers, and other persons required to have licenses.—

(1) A participant, manager, trainer, second, ~~timekeeper,~~ referee, judge, ~~announcer,~~ physician, matchmaker, or promoter must be licensed before directly or indirectly acting in such capacity in connection with any match involving a participant. A physician approved by the commission must be licensed pursuant to chapter 458 or chapter 459, must maintain an unencumbered license in good standing, and must demonstrate satisfactory medical training or experience in boxing, or a combination of both, to the executive director before working as the ringside physician.

Section 69. Paragraph (d) of subsection (1) of section 553.5141, Florida Statutes, is amended to read:

553.5141 Certifications of conformity and remediation plans.—

(1) For purposes of this section:

(d) "Qualified expert" means:

1. An engineer licensed pursuant to chapter 471.

2. A certified general contractor licensed pursuant to chapter 489.

3. A certified building contractor licensed pursuant to chapter 489.

4. A building code administrator licensed pursuant to chapter 468.

5. A building inspector licensed pursuant to chapter 468.

6. A plans examiner licensed pursuant to chapter 468.

7. An interior designer registered ~~licensed~~ pursuant to chapter 481.

8. An architect licensed pursuant to chapter 481.

9. A landscape architect licensed pursuant to chapter 481.

10. Any person who has prepared a remediation plan related to a claim under Title III of the Americans with Disabilities Act, 42 U.S.C. s. 12182, that has been accepted by a federal court in a settlement agreement or court proceeding, or who has been qualified as an expert in Title III of the Americans with Disabilities Act, 42 U.S.C. s. 12182, by a federal court.

Section 70. Effective January 1, 2021, subsection (1) of section 553.74, Florida Statutes, is amended to read:

553.74 Florida Building Commission.—

(1) The Florida Building Commission is created and located within the Department of Business and Professional Regulation for administrative purposes. Members are appointed by the Governor subject to confirmation by the Senate. The commission is composed of 19 ~~27~~ members, consisting of the following

members:

(a) One architect licensed pursuant to chapter 481 with at least 5 years of experience in the design and construction of buildings designated for Group E or Group I occupancies by the Florida Building Code ~~registered to practice in this state and actively engaged in the profession~~. The American Institute of Architects, Florida Section, is encouraged to recommend a list of candidates for consideration.

(b) One structural engineer registered to practice in this state and actively engaged in the profession. The Florida Engineering Society is encouraged to recommend a list of candidates for consideration.

(c) One air-conditioning contractor, ~~or~~ mechanical contractor, or mechanical engineer certified to do business in this state and actively engaged in the profession. The Florida Air Conditioning Contractors Association, the Florida Refrigeration and Air Conditioning Contractors Association, ~~and~~ the Mechanical Contractors Association of Florida, and the Florida Engineering Society are encouraged to recommend a list of candidates for consideration.

(d) One electrical contractor or electrical engineer certified to do business in this state and actively engaged in the profession. The Florida Association of Electrical Contractors, ~~and~~ the National Electrical Contractors Association, Florida Chapter, and the Florida Engineering Society are encouraged to recommend a list of candidates for consideration.

~~(e) One member from fire protection engineering or technology who is actively engaged in the profession. The~~

~~Florida Chapter of the Society of Fire Protection Engineers and the Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.~~

(e) ~~(f)~~ One certified general contractor or one certified building contractor certified to do business in this state and actively engaged in the profession. The Associated Builders and Contractors of Florida, the Florida Associated General Contractors Council, the Florida Home Builders Association, and the Union Contractors Association are encouraged to recommend a list of candidates for consideration.

(f) ~~(g)~~ One plumbing contractor licensed to do business in this state and actively engaged in the profession. The Florida Association of Plumbing, Heating, and Cooling Contractors is encouraged to recommend a list of candidates for consideration.

(g) ~~(h)~~ One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession. The Florida Roofing, Sheet Metal, and Air Conditioning Contractors Association and the Sheet Metal and Air Conditioning Contractors' National Association are encouraged to recommend a list of candidates for consideration.

(h) ~~(i)~~ One certified residential contractor licensed to do business in this state and actively engaged in the profession. The Florida Home Builders Association is encouraged to recommend a list of candidates for consideration.

(i) ~~(j)~~ Three members who are municipal, county, or district codes enforcement officials, one of whom is also a fire official. The Building Officials Association of Florida and the Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.

~~(k) One member who represents the Department of Financial Services.~~

~~(l) One member who is a county codes enforcement official. The Building Officials Association of Florida is encouraged to recommend a list of candidates for consideration.~~

(j) ~~(m)~~ One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state which complies with or is certified to be compliant with the requirements of the Americans with Disability Act of 1990, as amended.

(k) ~~(n)~~ One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry. The Florida Manufactured Housing Association is encouraged to recommend a list of candidates for consideration.

~~(o) One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession. The Florida Engineering Society is encouraged to recommend a list of candidates for consideration.~~

~~(p) One member who is a representative of a municipality or a charter county. The Florida League of Cities and the Florida Association of Counties are encouraged to recommend a list of candidates for consideration.~~

(l) ~~(q)~~ One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry. The Florida Building Material Association, the Florida Concrete and Products Association, and the Fenestration Manufacturers Association are encouraged to

recommend a list of candidates for consideration.

(m) ~~(r)~~ One member who is a representative of the building owners and managers industry who is actively engaged in commercial building ownership or management. The Building Owners and Managers Association is encouraged to recommend a list of candidates for consideration.

(n) ~~(s)~~ One member who is a representative of the insurance industry. The Florida Insurance Council is encouraged to recommend a list of candidates for consideration.

~~(t) One member who is a representative of public education.~~

(o) ~~(u)~~ One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession. The Florida Swimming Pool Association and the United Pool and Spa Association are encouraged to recommend a list of candidates for consideration.

(p) ~~(v)~~ One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED).

(q) ~~(w)~~ One member who is a representative of a natural gas distribution system and who is actively engaged in the distribution of natural gas in this state. The Florida Natural Gas Association is encouraged to recommend a list of candidates for consideration.

~~(x) One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy. The~~

~~Commissioner of Agriculture is encouraged to recommend a list of candidates for consideration.~~

~~(y) One member who shall be the chair.~~

Section 71. Subsection (5) is added to section 823.15, Florida Statutes, to read:

823.15 Dogs and cats released from animal shelters or animal control agencies; sterilization requirement.—

(5) Employees, agents, or contractors of a public or private animal shelter, a humane organization, or an animal control agency operated by a humane organization or by a county, municipality, or other incorporated political subdivision may implant dogs and cats with radio frequency identification microchips as part of their work with such public or private animal shelter, humane organization, or animal control agency.

Section 72. Subsection (7) of section 558.002, Florida Statutes, is amended to read:

558.002 Definitions.—As used in this chapter, the term:

(7) "Design professional" means a person, as defined in s. 1.01, who is licensed in this state as an architect~~, interior designer~~, a landscape architect, an engineer, a surveyor, or a geologist or who is a registered interior designer, as defined in s. 481.203.

Section 73. Subsection (3) of section 559.25, Florida Statutes, is amended to read:

559.25 Exemptions.—The provisions of this part shall not apply to or affect the following persons:

~~(3) Duly licensed auctioneers, selling at auction.~~

Section 74. Paragraphs (h) and (k) of subsection (2) of section 287.055, Florida Statutes, are amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(h) A "design-build firm" means a partnership, corporation, or other legal entity that:

1. Is certified under s. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

2. Is qualified ~~certified~~ under s. 471.023 to practice or to offer to practice engineering; qualified ~~certified~~ under s. 481.219 to practice or to offer to practice architecture; or qualified ~~certified~~ under s. 481.319 to practice or to offer to practice landscape architecture.

(k) A "design criteria professional" means a firm that is qualified ~~who holds a current certificate of registration~~ under chapter 481 to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under chapter 471 to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

Section 75. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020.

From: Madill, Colton <Colton.Madill@myfloridalicense.com>
Sent: Friday, February 21, 2020 11:51 AM
To: Davis, Niki <Niki.Davis@LASPBS.STATE.FL.US>
Subject: CS3/SB 474

Niki,

Please see our rough estimates for the fiscal impact of CS3/SB 474. Please let me know if you need anything else.

SB0474CS3 2020 Deregulation Bill Estimated Revenue Impact

DESCRIPTION	FY 20-21	FY 21-22
Initial License:		
Architecture Business - Odd	(418,000)	(25,500)
Body Wrappers	(109,900)	(109,925)
Geologist (Business)	(129,150)	(6,650)
Hair Braider	(83,975)	(84,025)
Hair Wrappers	(21,050)	(21,075)
Interior Design (Individual)	(326,725)	(3,325)
Interior Design Business - Odd	(113,050)	(2,065)
Interior Design Business - Registration	249,725	3,325
Landscape Architecture - Business	(4,715)	(141,373)
Talent Agencies	(189,945)	(20,655)
Business Agents	(525)	(525)
Labor Organizations-Organizations	(305)	(305)
Boxing Announcer	(500)	(500)
Boxing Timekeeper	(500)	(500)
Yacht and Ship Branch Office License	(5,900)	(7,500)
TOTAL FEES	**(1,154,515)**	**(420,598)**
	FY 20-21	FY 21-22
Total Impact on Revenue	**(1,154,515)**	**(420,598)**
Professions	(1,146,785)	(411,268)
Labor	(830)	(830)
Boxing Commission	(1,000)	(1,000)
Y&S Broker	(5,900)	(7,500)

Total	**(1,154,515)**	**(420,598)**
	FY 20-21	**FY 21-22**
Total Service Charge to General Revenue (8%)	**(92,361)**	**(33,648)**
Professions SC to GR	(91,743)	(32,901)
Labor	(66)	(66)
Boxing Commission	(80)	(80)
Y&S Broker	(472)	(600)
Total	**(92,361)**	**(33,648)**

Best,

Colton L. Madill
Deputy Legislative Affairs Director
Office of Legislative Affairs
The Department of Business and Professional Regulation
Phone: 850.487.4827
Email: colton.madill@myfloridalicense.com

From: Davis, Niki <Niki.Davis@LASPBS.STATE.FL.US>
Sent: Friday, February 21, 2020 3:44 PM
To: Milligan, Michelle <Michelle.Milligan@LASPBS.STATE.FL.US>
Subject: FW: 474 Questions

Footnote 218 (pg 52)

From: Madill, Colton <Colton.Madill@myfloridalicense.com>
Sent: Monday, February 17, 2020 12:16 PM
To: Davis, Niki <Niki.Davis@LASPBS.STATE.FL.US>
Subject: 474 Questions

Niki,

I believe Conner answered the question you had related to interior designers.

As for you other question: The $89,620 cost savings amount is the total amount over three fiscal years. FY 20-21 = $28,240; FY 21-22 = $30,440; and FY 22-23 = $30,940.

I am still working on your CPA CE question. I will provide you an answer as soon as possible. Please let me know if you need anything else in the meantime.

Best,

Colton L. Madill
Deputy Legislative Affairs Director
Office of Legislative Affairs
The Department of Business and Professional Regulation
Phone: 850.487.4827
Email: colton.madill@myfloridalicense.com

From: Oxamendi, Miguel <OXAMENDI.MIGUEL@flsenate.gov>
Sent: Thursday, February 20, 2020 1:05 PM
To: Davis, Niki <Niki.Davis@LASPBS.STATE.FL.US>
Cc: Imhof, Booter <Imhof.Booter@flsenate.gov>
Subject: FW: SB 474 Amendment 525354

Niki,

We have received the email below from the FDLE. We will be referencing the email in the analyses.

Miguel Oxamendi
Senior Attorney
The Florida Senate
Committee on Innovation, Industry,and Technology
525 Knott Building
404 S. Monroe St.
Tallahassee, FL 32399-1100
850.487.5957
850.410.5120 - FAX

From: Koon, Lynn <KOON.LYNN@flsenate.gov>
Sent: Thursday, February 20, 2020 12:33 PM
To: Imhof, Booter <Imhof.Booter@flsenate.gov>; Oxamendi, Miguel <OXAMENDI.MIGUEL@flsenate.gov>
Subject: FW: SB 474 Amendment 525354

Lynn Koon
Sr. Admin. Assistant
Committee on Innovation, Industry and Technology
Joint Committee on Public Counsel Oversight
525 Knott Building
(850) 487-5957 or (850) 487-5937
(850) 410-5120 (Fax)

From: Smith, Bobbie <BobbieSmith@fdle.state.fl.us>
Sent: Thursday, February 20, 2020 12:19 PM
To: Whaley, Karen <Whaley.Karen@flsenate.gov>
Cc: Koon, Lynn <KOON.LYNN@flsenate.gov>; McKay, Todd <MCKAY.TODD@flsenate.gov>; Truxell, Rachel <RachelTruxell@fdle.state.fl.us>; Draa, Ronald <RonaldDraa@fdle.state.fl.us>
Subject: SB 474 Amendment 525354

Good Afternoon,

We wanted to bring to your attention to an issue that exists with Amendment 525354 lines 166 - 176. Our agency is currently working on a formal analysis and we will provide that as soon as it is available. The bill repeals sections 468.402 and 468.403, resulting in talent agency personnel and owners no longer being screened through the DBPR for licensure; however, the bill's language attempts to transfer the authority to conduct such screenings to third-party (commercial) "bonding agencies". The owners and operators of talent agencies are not a regulatory agency and are unable to submit fingerprints to FDLE for a (Public Law 92-544) state and national criminal history record check. Below I've enclosed the standards for submission under Public Law 92-544.

Public Law 92-544 Requirements

The authority for the FBI to conduct a criminal record check for a noncriminal justice licensing or employment purpose is based upon Pub. L. 92-544. Pursuant to Pub. L. 92-544, the FBI is empowered to exchange identification records with officials of state and local governments for purposes of licensing and employment if authorized by a state statute which has been approved by the Attorney General of the United States. The Attorney General's authority to approve the statute is delegated to the FBI by Title 28, Code of Federal Regulations, Section 0.85(j). The standards employed by the FBI in approving Pub. L. 92-544 authorizations have been established by a series of memoranda issued by the Office of Legal Counsel, Department of Justice. The standards are:

1. The authorization must exist as the result of legislative enactment (or its functional equivalent);
2. The authorization must require fingerprinting of the applicant;
3. The authorization must, expressly or by implication, authorize use of FBI records for screening of the applicant;
4. The authorization must not be against public policy;
5. The authorization must not be overly broad in its scope; it must identify the specific category of applicants/licensees.

Fingerprint card submissions to the FBI under Pub. L. 92-544 must be forwarded through the State Identification Bureau (FDLE, in this instance). The state must also designate an authorized

governmental agency to be responsible for receiving and screening the results of the record check to the determine an applicant's suitability for employment or licensing.

Please let me know if you have any questions.

Thank You,
Bobbie Smith
Legislative Analyst
Office of External Affairs
Florida Department of Law Enforcement
850.410.7014 ofc
850.251.6392 cell

The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 10, 2020

I respectfully request that **Senate Bill #474**, relating to Deregulation of Professions and Occupations, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Ben Albritton
Florida Senate, District 26

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name DAVID ROBERTS

Job Title

Address 210 S. MONROE ST.
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850-443-4820

Email david@norrob.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Society of Interior Designers & International Interior Design Assoc.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation of Occupations

Name Chris Dawson

Job Title Legislative Counsel

Address 301 E. Pine Street, Suite 1400
Street

Orlando FL 32801
City *State* *Zip*

Phone 407-843-8880

Email chris.dawson@gray-robinson.com

Speaking: ☑ For ☐ Against ☑ Information

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

Representing Florida Roofing and Sheet Metal Contractors 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

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2/20/2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic _____

Name Christine Stapell

Job Title Executive Director

Address 2834 Remington Green Cir
Street

Phone 850 386 8856

Tallahassee FL 32308
City *State* *Zip*

Email CStapell@floridahealth.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Academy of Dermatology & Dermatologic

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

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2-20-2020
Meeting Date

SB 474
Bill Number (if applicable)

526354
Amendment Barcode (if applicable)

Topic Deregulation of Professions

Name Mez Yabol

Job Title President

Address 2550 South Ridgewood Ave.
Street
South Daytona FL 32119
City *State* *Zip*

Phone 386-405-2711

Email mez@ixtlacademy.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FACTS

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

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2·20·2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation of Professions

Name Michael Harmon

Job Title President

Address 3665 E Bay Dr
Street
Largo FL 33771
City *State* *Zip*

Phone 727·686·7509

Email michael-harmon@abschool.edu

Speaking: ☐ For ☑ Against ☐ Information

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

Representing F.A.C.T.S.

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

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2-20-20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name SUSAN MORGAN

Job Title PRESIDENT

Address 1493 NW COCONUT PT LN
Street

STUART FL 34994
City *State* *Zip*

Phone 772 285 7692

Email SUSAN@SUSANMORGANINTERIORS.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SUSAN MORGAN INTERIORS

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

525 354
Amendment Barcode (if applicable)

Topic deregulation

Name Lisbeth Lenert

Job Title Workplace Strategist

Address 9205 W. Sunrise Blvd
Street
Plantation FL 33322
City *State* *Zip*

Phone 954-631-9843

Email lisbeth.lenert@cwhite.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

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

02/20/20
Meeting Date

474
Bill Number (if applicable)

523574
Amendment Barcode (if applicable)

Topic Deregulation

Name Rebecca Davisson

Job Title Interior Designer

Address 1510 Montana Ave
Street

Phone 904 854 2402

Jacksonville FL 32207
City *State* *Zip*

Email Rebecca@designmindllc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Designmind, LLC

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

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2/20/20
Meeting Date

474
Bill Number (if applicable)

527354
Amendment Barcode (if applicable)

Topic deregulation

Name Marissa Hibel

Job Title Project Coordinator

Address 302 Knights Run Av
Street

Tampa FL 33602
City *State* *Zip*

Phone 813-480-0803

Email marissa.hibel@greshamsmith.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Gresham Smith

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

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2/20/2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name NATALIE MILKO

Job Title INTERIOR DESIGNER

Address 2000 MERCHANTS ROW BLVD
Street

Phone 229-977-3027

TALLAHASSEE FL 32311
City *State* *Zip*

Email NAMILKO@HOTMAIL.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA

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)

2/20/2020
Meeting Date

474
Bill Number (if applicable)

52354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name LAURI LEWALLEN

Job Title SALES/KNOLL

Address JACKSONVILLE, FL 32217
Street

6936 LA LOMA DR
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA NE

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

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2/20/20
Meeting Date

474
Bill Number (if applicable)

Topic DEREGULATION

S25354
Amendment Barcode (if applicable)

Name NICHOLAS MARRA

Job Title PROJECT COORDINATOR

Address 302 KNIGHTS RUN AVE
Street

Phone 561-635-6988

TAMPA FL 33602
City *State* *Zip*

Email nick.marra@greshamsmith.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing GRESHAM SMITH

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

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2/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Carole Butler

Job Title FL Registered ID # 0001282

Address 324 Shamrock St. E.
Street

Tallahassee FL 32309
City *State* *Zip*

Phone 850 264 9343

Email carolebutler@live.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Society of Interior

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

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2/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name THOMAS WILKINSON

Job Title NBD

Address 1600 EAST EIGHTH AVE
Street

Phone

TAMPA FL 33605
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing BOS-TAMPA

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

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2/20/20
Meeting Date

474
Bill Number (if applicable)

SZ5384
Amendment Barcode (if applicable)

Topic DEREGULATION

Name LISA WAXMAN

Job Title PROFESSOR EMERITUS

Address 1411 AVONDALE WAY
Street

TALLAHASSEE FL 32317
City *State* *Zip*

Phone 850 443 0789

Email lwaxman@fsu.edu

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA STATE UNIVERSITY / AMERICAN SOCIETY OF INT DES.

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

2/20/20
Meeting Date

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

474
Bill Number (if applicable)

525354
~~525354~~
Amendment Barcode (if applicable)

Topic DEREGULATION

Name HAYS LEWDAN

Job Title STUDENT

Address 6936 LYLANDS DRIVE
Street

JACKSONVILLE FL 32217
City *State* *Zip*

Phone 9043091433

Email HAYSLEWDAN@GMAIL.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing UNF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

474

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/20
Meeting Date

525354
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic DEREGULATION

Name REBECCA CROSBY

Job Title INTERIOR DESIGNER

Address 2865 FIRST AVE
Street

FERNANDINA BEACH FL 32034
City *State* *Zip*

Phone 904-517-3308

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA

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)

02/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name SUSAN MORGAN

Job Title INTERIOR DESIGNER

Address 1493 NW COCONUT PT LN
Street

Phone 772-285-7692

STUART FL 34994
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA / SUSAN MORGAN INTERIOR

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)

02/20/2020
Meeting Date

CS/CS/SB 474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation of Professions and Occupations

Name Brett Ewer

Job Title Lobbyist

Address 611 Keefer Place NW
Street

Washington DC 20010
City *State* *Zip*

Phone 508-560-2738

Email brett.ewer@crossfit.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing CrossFit, 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.

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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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

S253.94
Amendment Barcode (if applicable)

Topic EDUCATION

Name JILL POBLE

Job Title PROF/CHAIR FSU DEPT OF INTERIOR ARCHITECTURE

Address 2109 SPRUCE AVE
Street

Phone 220-2800 FSU Ext

TALLAHASSEE FL 32306
City *State* *Zip*

Email JPOBLE@FSU.EDU

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SGCF / 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.

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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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

SB 2534
Amendment Barcode (if applicable)

Topic DEREGULATION

Name WARREN GOETZ

Job Title PRESIDENT

Address P.O. BOX 553 FL
Street

DEERFIELD BEACH
City *State* *Zip*

Phone 954-601-5648

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IASIO SFCA CHAPTER

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)

02/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Madelen Salter

Job Title Interior Designer

Address 6 East Bay St. Ste. 100
Street

Jacksonville FL. 32202
City *State* *Zip*

Phone 904-651-9256

Email madelen.salter@cbi-se.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing CBI and IIDA

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)

02/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Mary Couch

Job Title Senior Interior Designer

Address 225 Water Street, Suite 2700
Street

Jacksonville FL 32202
City *State* *Zip*

Phone 904.332.6699

Email Mary.couche greshamsmith.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Interior Designers | Gresham Smith

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

S224941
Amendment Barcode (if applicable)

Topic Deregulation

Name Reghan Elliott

Job Title student - FSU

Address _____
Street

_____
City *State* *Zip*

Phone 850 980 9697

Email rje17@my.fsu.edu

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida State University

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)

2-20-20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Carolyn Blake

Job Title Senior Interior Designer

Address 4186 Birmingham Rd
Street

Jacksonville FL 32207
City *State* *Zip*

Phone 850-491-0929

Email carolyn.blake@gresham-smith.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Gresham Smith

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic ~~Design~~ Deregulation

Name Michael Ruggiano

Job Title Interior Designer

Address 3505 SW 27th St. Apt. 313
Street
Gainesville FL 32608
City *State* *Zip*

Phone 772-360-7974

Email miruggiano@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Michele Brown

Job Title Director & Principal

Address 4887 Victor St
Street
Jacksonville FL 32207
City *State* *Zip*

Phone 904 683 6625

Email michele@micamydesign.us

Speaking: ☑ For ☐ Against ☐ Information

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

Representing MicamyDesign Studio

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)

20 FEB 2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name SUE P BROWN

Job Title DIRECTOR OF CORPORATE INTERIORS

Address 4807 VICTOR ST
Street

JACKSONVILLE FL 32210
City *State* *Zip*

Phone 904-386-6625

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing MIAMY DESIGN STUDIO

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Samantha Untea

Job Title Interior Designer

Address 9169 Learning Way
Street

Tallahassee FL 32306
City *State* *Zip*

Phone 850-901-5864

Email Sbaker4@fsu.edu

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Gresham Smith

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)

2/20/20
Meeting Date

SB 474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name EMILY VINEYARD

Job Title INTERIOR DESIGNER

Address 1900 RIVER LAGOON TRCE
Street

Phone

SAINT AUG FL 32092
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing GRESHAM SMITH

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)

2/20/2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Emily Haynes

Job Title Interior Designer

Address 10075 Gate Parkway N Apt 2711 Phone 904 615 3431
Street

Jacksonville FL 32246 Email hayneseа@gmail.com
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Gresham Smith

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

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2/20/2020
Meeting Date

SB 474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic deregulation

Name Johanna Thiger

Job Title project coordinator - ID

Address 471 W 59 st.
Street

Phone (954) 812-8287

Jacksonville FL 32208
City *State* *Zip*

Email johanna.thiger@gresham smith.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Gresham Smith

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)

4/20/20
Meeting Date

474
Bill Number (if applicable)

SB 5354
Amendment Barcode (if applicable)

Topic Deregulation

Name Hays ~~Gwaltney~~ Lewallen

Job Title Student

Address 6936 La Loma Dr
Street
Jacksonville FL 32217
City *State* *Zip*

Phone 904 3091433

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA North 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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Lauri Lewallen

Job Title Sales / Icholl

Address 6936 LA CONCHA DR
Street

JACKSONVILLE, FL 32217
City *State* *Zip*

Phone 904 314 3948

Email llewallen@icholl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA North 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)

2/20/2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name SARAH RINK

Job Title INTERIOR DESIGNER

Address 263 RENSSELAER AVENUE
Street

JACKSONVILLE FL 32205
City *State* *Zip*

Phone 904.673.5418

Email sarah@dcoop.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA NORTH FLORIDA + DESIGN COOPERATIVE

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

525-354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name JOHN PEREZ

Job Title PRINCIPAL INTERIOR DESIGNER

Address 31 W. Adams St. Ste 103
Street

Jacksonville FL 32202
City *State* *Zip*

Phone 904-632-4400

Email jperez@hoda design.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing HODA North 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

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2/20/2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name KELLEY ROBINSON

Job Title ASID FLORIDA NORTH PRESIDENT

Address 1505 COLONIAL DRIVE
Street

Phone 850-284-4235

TALLAHASSEE FL 32303
City *State* *Zip*

Email kelley@workshop131.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ASID FLORIDA NORTH

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic DEREGULATION

Name JOSE CARDENAS

Job Title PRINCIPAL INTERIOR DESIGNER / OWNER

Address 31 WEST ADAMS ST. SUITE 103
Street

JACKSONVILLE FL 32202
City *State* *Zip*

Phone 904.632.4800

Email JCARDENAS@HOTAdesign.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IDA NORTH 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)

2/20/2020
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Anna Osborne

Job Title Interior Designer @ MLD Architects

Address 211 John Knox Rd. Ste 105
Street

Tallahassee FL 32303
City *State* *Zip*

Phone 850.385.9200

Email anna@mldarchitect.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing MLD Architects

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)

2/2/20
Meeting Date

474
Bill Number (if applicable)

525354
Amendment Barcode (if applicable)

Topic Deregulation

Name Emily Ely

Job Title Associate, Senior Interior Designer (850)

Address 413 All Saints Street
Street

Phone 222-8106

Tallahassee FL 32301
City *State* *Zip*

Email eely@architects-grc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing IIDA / GRC Architects

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)

2/20/2020
Meeting Date

SB 474
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Deregulation of Professions

Name Mez Varol

Job Title President

Address 2650 South Ridgewood Ave
Street
South Daytona FL 32119
City *State* *Zip*

Phone 386-405-2711

Email mez@intl-academy.com

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

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

Representing FACTS - Florida Association of Cosmetology & Technical Schools

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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)

2.20.2020
Meeting Date

474
Bill Number (if applicable)

Topic DERIEGULATION OF PROFESSIONS

Amendment Barcode (if applicable)

Name MICHAEL HALMON

Job Title PRESIDENT

Address 3665 E. Bay Dr
Street

Largo FL 33771
City *State* *Zip*

Phone 727.686.7509

Email Michael.Halmon@Aboutcut.Edu

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF COSMETOLOGY + TECHNICAL SCHOOLS

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

Topic SB 474

Amendment Barcode (if applicable)

Name Colton Madill

Job Title Deputy Legislative Affairs Director

Address 2601 Blair Stone Rd.
Street

Tallahassee FL 32399
City *State* *Zip*

Phone (850)487-4827

Email colton.madill@myfloridalicense.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing DBPR

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

2/20/2020
Meeting Date

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

474
Bill Number (if applicable)

Topic DEREGULATION

Amendment Barcode (if applicable)

Name CHRISTIAN CAMACHO

Job Title

Address 2 S BISCAYNE BLVD #3180
Street

MIAMI FL 33131
City *State* *Zip*

Phone 305 721-1600

Email CHRISTIAN@CHAMBERCONSULTANTSFL.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing INSTITUTE FOR JUSTICE

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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

Topic Deregulations of Professions and Deregulations

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

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)

2/20/20
Meeting Date

SB 474
Bill Number (if applicable)

Topic Deregulation of professions

Amendment Barcode (if applicable)

Name Robert Rosenberg

Job Title President

Address 4951 E Adamo Dr.
Street

Tampa Fl. 33605
City *State* *Zip*

Phone 813-654-4529

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Artistic Nails & Beauty Academy

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)

20 Feb 2020
Meeting Date

474
Bill Number (if applicable)

Topic Deregulation

Amendment Barcode (if applicable)

Name Sandra Mortham

Job Title

Address 6675 Weeping Willow Way
Street

Phone 850-251-2283

Tall FL 32311
City *State* *Zip*

Email Smortham@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Assoc of Postsecondary

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)

2-20-20
Meeting Date

474
Bill Number (if applicable)

Topic Deregulation of Professions & Occupations

Amendment Barcode (if applicable)

Name Tara Taggart

Job Title Legislative Policy Analyst

Address PO Box 1757
Street

Tallahassee FL 32302
City *State* *Zip*

Phone 850-701-3603

Email ttaggart@flcities.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

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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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic DEREG

Name Sal Nuzzo

Job Title

Address 100 S. Duval St
Street
Tallahassee FL 32301
City *State* *Zip*

Phone

Email SNUZZO@JAMESMADISON.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing James Madison Institute

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

20 Feb 20
Meeting Date

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

474
Bill Number (if applicable)

Topic Deregulation

Amendment Barcode (if applicable)

Name James Mosteller

Job Title Advocacy Associate

Address 315 S Monroe St
Street

Tallahassee
City *State* *Zip*

Phone 850/727-3711

Email JamesM@excelnet.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)

2/20/20
Meeting Date

474
Bill Number (if applicable)

Topic Re: DEREGULATION OF INTERIOR DESIGN

53354
Amendment Barcode (if applicable)

Name DOUGLAS FELDMAN

Job Title OWNER

Address 345 West PALMETTO PK RD
Street

BOCA RATON FL 33432
City *State* *Zip*

Phone 561.447-7301

Email Douglas@feldmandesignstudio.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing INTERIOR DESIGN

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 512
INTRODUCER:	Appropriations Committee; Health Policy Committee; and Senator Hutson
SUBJECT:	Nonembryonic Stem Cell Banks
DATE:	February 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	**Fav/CS**
2.	McKnight	Kynoch	AP	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 512 creates section 381.4017, Florida Statutes, in order to authorize the administration of nonembryonic stem cells and the use of such cells in health care products. The bill:

- Defines multiple terms relating to the storing, making, and administering of nonembryonic stem cells.
- Requires the Agency for Health Care Administration (AHCA) to license establishments meeting the definition of nonembryonic stem cell banks (NSCBs) as health care clinics.
- Authorizes the AHCA to adopt rules consistent with federal regulations that include criteria for advertising, procedures and protocols, incident reporting, informed consent, and recordkeeping.
- Requires NSCBs to apply for a health care clinic license and meet current licensure requirements and additional requirements to be provided by the AHCA in rule.
- Provides licensure exemption for hospitals, ambulatory surgical centers, and clinical facilities affiliated with an accredited medical school that provides training to medical students, residents, or fellows.
- Requires that NSCBs comply with specified requirements, including commercial and professional liability coverage, appointment of a Medical Director that meets specific qualification and notification requirements, and adherence to manufacturing processes for the collection, removal, manufacturing, processing, compounding, and implantation of nonembryonic stem cells.

The AHCA estimates that CS/SB 512 will have a significant negative fiscal impact on the Agency for Health Care Administration's (AHCA) expenditures that will be offset by the significant positive fiscal impact to the AHCA's revenues from the licensure, registration and inspection fees collected from NSCBs under SB 7066, which is linked to the bill.[1] See Section V.

The bill takes effect on July 1, 2020, contingent on SB 7066 or similar legislation taking effect on that same date, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Stem Cells

Stem cells are unspecialized cells that have the ability to divide for indefinite periods of time in culture medium and to give rise to specialized cells.[2] Stem cells have the potential to develop into many different types of cells during early life and growth. In addition, in many human tissues, stem cells serve as an internal repair system, dividing essentially without limit, to replenish other cells as long as a person is still alive. When a stem cell divides, each new cell has the potential to either remain an undifferentiated stem cell or become a cell with a specialized function such as a muscle, red blood, or brain cell.[3]

Federal Regulation of Stem Cells

Certain stem cells are labeled as a drug and subject to the U.S. Food and Drug Administration (FDA) regulation if the stem cell has been derived from structural tissue or non-structural tissue in a manufacturing process involving more than minimal manipulation.[4]

The FDA regulates articles containing or consisting of human cells or tissues that are intended for implantation, transplantation, infusion or transfer into a human recipient as human cells, tissues, or cellular or tissue-based products (HCT/Ps) which are known as stem cells.[5]

The U.S. Center for Biologics Evaluation and Research (CBER) regulates HCT/Ps.[6] The CBER does not regulate the transplantation of vascularized human organ transplants such as the kidney, liver, heart, lung, or pancreas. The Health Resources and Services Administration (HRSA) of the

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[1] Agency for Health Care Administration, *CS/SB 512 Bill Analysis* (Feb. 14, 2020) (on file with the Senate Committee on Appropriations).
[2] National Institutes of Health, Stem Cell Information, Glossary, *Stem Cells* https://stemcells.nih.gov/glossary.htm#stemcells (last visited Jan. 27, 2020).
[3] National Institutes of Health, Stem Cell Information, *Stem Cell Basics I.*, https://stemcells.nih.gov/info/basics/1.htm (last visited Jan. 27, 2020).
[4] U.S. Food and Drug Administration, Center for Evaluation and Research, Center for Devices and Radiological Health, Office of Combination Products, *Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue-Based Products: Minimal Manipulation and Homologous Use, Guidance for Industry and Food and Drug Administration Staff* (Nov. 2017, corrected Dec. 2017), *available at* https://www.fda.gov/downloads/biologicsbloodvaccines/guidancecomplianceregulatoryinformation/guidances/cellularandgenetherapy/ucm585403.pdf (last visited Jan. 27, 2020).
[5] 21 C.F.R. 1271.3(d).
[6] See 21 C.F.R., 1270 and 1271. The CBER is a part of the U.S. Food and Drug Administration.

U.S. Department of Health and Human Services oversees the transplantation of vascularized human organs.[7]

Minimally manipulated bone marrow is also used in stem cell treatments but is not considered by the FDA to be an HCT/Ps,[8] and thus is not regulated by the FDA.[9] The HRSA regulates minimally manipulated bone marrow stem cells used for transplant.[10]

Due to the unique nature of HCT/Ps, the FDA uses a tiered, risk-based approach to the regulation of HCT/Ps, rather than the Federal Food, Drug and Cosmetic Act (federal FDCA), for products that meet the definition of a drug, biologic, or device. The tiered, risk-based approach includes recommendations on how the transmission of communicable diseases can be prevented; the process controls necessary to prevent contamination and preserve the integrity and function of the products; and how clinical safety and effectiveness can be assured.[11]

An HCT/P is exempt from registration and regulation under the Public Health Service Act (PHSA)[12] and 21 C.F.R. 1271, if the establishment:[13]

- Uses the HTC/Ps solely for nonclinical scientific or educational purposes;
- Removes HCT/Ps from an individual and implants such HCT/Ps into the same individual, during the same surgical procedure;
- Is a carrier who accepts, receives, carries, or delivers HCT/P's in the usual course of business;
- Does not recover, screen, test, process, label, package, or distribute, but only receives or stores HCT/P's, solely for implantation, transplantation, infusion, or transfer within its facility; or
- Only recovers reproductive cells or tissue and immediately transfers them into a sexually intimate partner of the cell or tissue donor.

If an individual is under contract with a registered establishment, and engaged solely in recovering cells or tissues and sending the recovered cells or tissues to the registered establishment, he or she is not required to register or list the establishment's HCT/Ps independently, but he or she must comply with all other applicable requirements.[14]

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[7] U.S. Food and Drug Administration, *Tissue and Tissue Products* (as of July 11, 2019), *available at* https://www.fda.gov/BiologicsBloodVaccines/TissueTissueProducts/default.htm (last visited Jan. 27, 2020).
[8] *See* 21 C.F.R. 1271.3(d)(4).
[9] U.S. Food and Drug Administration, *FDA Warms About Stem Cell Therapies*, *available at* https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm286155.htm (last visited Jan. 27, 2020).
[10] U.S. Department of Health and Human Services, Health Resources and Services Administration, *Healthcare Systems*, *available at* https://www.hrsa.gov/sites/default/files/ourstories/organdonation/factsheet.pdf (last visited Jan. 27, 2020).
[11] *Supra* note 4.
[12] 42 U.S.C. s. 262.
[13] Establishment means a place of business under one management, at one general physical location, that engages in the manufacture of human cells, tissues, and cellular and tissue-based products. Establishment includes: (1) Any individual, partnership, corporation, association, or other legal entity engaged in the manufacture of human cells, tissues, and cellular and tissue-based products; and (2) Facilities that engage in contract manufacturing services for a manufacturer of human cells, tissues, and cellular and tissue-based products. 21 C.F.R. 1271.3(b).
[14] 21 C.F.R. 1271.15.

If an HCT/P does not meet the above criteria, and the manufacturer of the HCT/P does not qualify for an exception,[15] the HCT/P will be regulated as a drug, device, and/or biological product under the federal FDCA, the PHSA,[16] and applicable regulations;[17] and premarket review will be required.[18]

According to the FDA, if a manufacturer or establishment isolates cells from structural tissue to produce a cellular therapy product, the definition of minimal manipulation applies regardless of the method used to isolate the cells. The definition applies because the assessment of whether the HCT/P is a structural tissue or cellular/nonstructural tissue is based on the characteristics of the HCT/P as it exists in the donor, prior to recovery, and prior to any processing that takes place.[19]

Federal law requires tissue establishments[20] that do not meet an exemption to:
- Screen and test donors;
- Prepare and follow written procedures for prevention of the spread of communicable disease; and
- Maintain records.[21]

The FDA has published rules to broaden the scope of products subject to regulation and to include more comprehensive requirements to prevent the introduction, transmission, and spread of communicable disease. The requirements are intended to improve protection of the public health while minimizing regulatory burden.[22]

The only HCT/Ps that are FDA-approved for use in the United States consist of blood-forming stem cells, referred to as hematopoietic progenitor cells, derived from cord blood. These products are approved for limited use in patients with disorders that affect the hematopoietic system – the body system that is involved in the production of blood. The FDA-approved stem cell products are listed on the FDA website.[23]

Florida Regulation of Stem Cells

Stem Cell Preparation/Manufacturing

The registration of stem cell banks does not exist under current Florida law. The Department of Business and Professional Regulation (DBPR) administers and enforces the Florida Drug and Cosmetic Act to prevent fraud, adulteration, misbranding, or false advertising in the preparation, manufacture, repackaging, or distribution of drugs, devices, and cosmetics.[24] In Florida, "a

[15] 21 C.F.R., 1271.10, 1271.15 and 1271.155.
[16] *Supra* note 12.
[17] 21 C.F.R. 1271.
[18] *Supra* note 4.
[19] *Id.*
[20] *Supra* note 13.
[21] *See* 21 C.F.R 1270 and 1271.2121.
[22] *Supra* note 7.
[23] U.S. Food and Drug Administration, *FDA Regulation of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/P's) Product List* (page updated Feb. 2, 2018), *available at* https://www.fda.gov/vaccines-blood-biologics/tissue-tissue-products/fda-regulation-human-cells-tissues-and-cellular-and-tissue-based-products-hctps-product-list (last visited Jan. 31, 2020).
[24] *See* part I of ch. 499, F.S.

person may not sell, offer for sale, hold for sale, manufacture, repackage, distribute, or give away any new drug unless an approved application has become effective under the federal act or unless otherwise permitted by the Secretary of the United States Department of Health and Human Services for shipment in interstate commerce."[25]

The Florida Drug and Cosmetic Act defines a "drug" as an article that is:

- Recognized in the current edition of the United States Pharmacopoeia and National Formulary (USP-NF),[26] official Homeopathic Pharmacopoeia of the United States (HPUS),[27] or any supplement to any of those publications;
- Intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans or other animals;
- Intended to affect the structure or any function of the body of humans or other animals; or
- Intended for use as a component of any article:
  - Listed in the USP-FM, or HPUS;
  - Used in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans or other animals;
  - Used to affect the structure or any function of the body of humans or other animals; and
  - That includes active pharmaceutical ingredients.[28]

The Florida Drug and Cosmetic Act defines the manufacturing of a drug to mean the preparation, deriving, compounding, propagation, processing, producing, or fabrication of a substance into a drug.[29]

Stem cells recovered, processed, and implanted in Florida that meet the above definition are "unapproved new drugs" under both federal and state regulation and require a manufacturing permit issued by the DBPR to ensure the drugs are manufactured in accordance with good manufacturing practices.[30]

The Florida Drug and Cosmetic Act defines the "distribution" of a drug to include the selling, purchasing, trading, delivering, handling, storing, or receiving of a drug; but does not include the administration or dispensing of a drug.[31]

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[25] Section 499.023, F.S.

[26] The USP-NF is a combination of two compendia, the United States Pharmacopeia (USP) and the National Formulary (NF). It contains standards for medicines, dosage forms, drug substances, excipients, biologics, compounded preparations, medical devices, dietary supplements, and other therapeutics. *See* 21 U.S.C. s. 301(g)(1).

[27] The HPUS is declared a legal source of information on drug products (along with the USP/NF) in the Federal Food Drug and Cosmetic Act, 21 U.S.C. § 301. Section 201(g)(1) of the Act. 21 U.S.C. s. 321 defines the term "drug" as articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopeia of the United States, or official National Formulary or any supplement to any of them.

[28] Section 499.003(17), F.S.

[29] Section 499.003(28), F.S.

[30] Department of Business and Professional Regulation, Division of Drugs, Devices and Cosmetics, *Does my company need a permit?*, *available at* http://www.myfloridalicense.com/DBPR/drugs-devices-and-cosmetics/do-i-need-a-license/#1508505246226-7153ba5b-b4c4 (last visited Jan. 31, 2020). See also s. 499.003(28), F.S.

[31] Section 499.003(16), F.S.

Stem Cell Implantation or Transplantation

Stem cells may be collected, processed, and implanted or transplanted in a physician's office, health care clinic, ambulatory surgical center, or hospital.[32] In order to ship, mail, or deliver, in any manner, a medicinal drug into Florida, a nonresident pharmacy must be registered under s. 465.0156, F.S. In order to ship, mail, deliver, or dispense, in any manner, a compounded sterile product into Florida, a nonresident pharmacy, or an outsourcing facility, must hold a nonresident sterile compounding permit issued by the Board of Pharmacy (BOP).[33]

Physician's Office

The Department of Health (DOH) Office of Surgery Registration and Inspection Program was established to register and set standards for allopathic and osteopathic physicians performing surgery in an office setting. The DOH requires all physicians who perform the following to register their office with the DOH:

- Liposuction procedures where more than 1,000 cubic centimeters of supernatant fat is removed;
- Level II procedures; and
- All Level III surgical procedures.[34]

Each registered physician's office must establish financial responsibility[35] and designate a physician who is responsible for the office's compliance with the office health and safety requirements. The designated physician must have a full, active, and unencumbered license and must practice at the office for which he or she is responsible. Within ten days after the termination of the designated physician, the office must notify the DOH of the designation of another physician to serve as the designated physician. If the office fails to comply with these requirements the DOH may suspend the registration.[36]

The DOH will inspect registered physicians' offices that are not nationally accredited, to ensure the safety of the people of Florida.[37]

Health Care Clinics

The Health Care Clinic Act[38] provides the Agency for Health Care Administration (AHCA) with licensing and regulatory authority to provide standards and oversite for health care clinics.[39] A clinic is defined as an entity where health care services are provided and which tenders charges for reimbursement for such services. Numerous exceptions to licensure exist.[40] The AHCA interprets the scope of its regulatory powers to solely include entities that bill third parties, such as Medicare, Medicaid, and insurance companies. Entities that provide health care services and

[32] See ss. 395.002, 458.328, 459.0138, and 400.9935, F.S.; Rules 64B8-9.009 and 64B15-14.007, F.A.C..
[33] Section 465.0158, F.S.
[34] Sections 458.328 and 459.0138, F.S.; Rules 64B8-9.009 and 64B15-14.007, F.A.C..
[35] Section 458.328(1)(c), F.S.
[36] Section 458.328(1)(b), F.S.
[37] Department of Health, Licensing and Regulation, *Office Surgery Registration, available at* http://www.floridahealth.gov/licensing-and-regulation/office-surgery-registration/index.html (last visited Jan. 31, 2020).
[38] Part X of ch. 400, F.S.
[39] Section 400.990, F.S.
[40] Section 400.9905(4). F.S.

accept "cash only" for services are excluded from the definition of "clinic" and are not subject to licensure or regulation by the AHCA.[41]

Hospitals and Ambulatory Surgical Centers

The AHCA is responsible for licensing, registering, and regulating hospitals and ambulatory surgical centers (ASCs) pursuant to ch. 395, F.S. An ASC is a facility, the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within 24 hours, and which is not part of a hospital.[42]

Regulation of Physicians in Florida

The Board of Medicine (BOM) and the Board of Osteopathic Medicine (BOOM) (the Boards) within the DOH have the authority to adopt rules to regulate the practice of medicine and osteopathic medicine, respectively. The boards have authority to establish, by rule, standards of practice and standards of care for particular settings.[43] Such standards may include education and training, medications including anesthetics, assistance of and delegation to other personnel, sterilization, performance of complex or multiple procedures, records, informed consent, and policy and procedures manuals.[44]

Currently, the BOM is warning physicians and consumers that they should be aware of the risks involved in stem cell therapies and regenerative medicine that have not been FDA-approved.[45] Although certain stem-cell therapies offer hope and hold great potential in treating devastating conditions, the FDA has approved few treatments involving stem cells. The BOM warns physicians providing stem cell treatment that he or she should have an investigational new drug application (IND) or a single patient IND for Compassionate or Emergency Use.[46] Florida does not specifically regulate clinics that perform treatments using stem cells, but the Boards have authority to investigate and discipline physicians who fail to meet the standard of care for providing any medical services.

III. Effect of Proposed Changes:

The bill creates s. 381.06017, relating to nonembryonic stem cell banks. The bill defines a "nonembryonic stem cell," also referred to as a "somatic stem cell" or an "adult human stem cell," as an allogenic or autologous cell that is undifferentiated and unspecialized and that has the ability to divide for indefinite periods of time in a medium and to become a specialized cell. The term includes a human nonembryonic cell that is altered or processed to become undifferentiated, losing its original structural function, so that it can be differentiated into a specialized cell type. The term does not include cells that are minimally manipulated or are only rinsed, cleaned, or sized and remain differentiated.

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[41] *Id*.
[42] Section 395.002(3), F.S.
[43] Sections 458.331(v) and 459.015(z), F.S.
[44] *Id*.
[45] The Department of Health, Board of Medicine, *Information on Stem Cell Clinics Offering Unapproved Therapies*, *available at* http://flboardofmedicine.gov/latest-news/october-2015-newsletter/ (last visited Jan. 31 2020).
[46] *Id*.

The bill defines a nonembryonic stem cell bank (NSCB) as a publicly or privately owned establishment that does any of the following:

- Collects and stores human nonembryonic stem cells for use in a product or patient-specific medical administration.
- Provides patient-specific health care services using human nonembryonic stem cells.
- Advertises human nonembryonic stem cell services, including, but not limited to, collection, manufacturing, storage, dispensing, use, or purported use of human nonembryonic stem cells or products containing human nonembryonic stem cells, which:
  - Have not been approved by the U.S. Food and Drug Administration (FDA); or
  - Are not the subject of clinical trials approved by the FDA; and
  - Are intended to diagnose, cure, mitigate, treat, provide therapy for, or prevent an injury or a disease.
- Performs any procedure that is intended to:
  - Collect or store human nonembryonic stem cells for any purpose; or
  - Diagnose, cure, mitigate, treat, provide therapy for, or prevent an injury or a disease with the use or purported use of human nonembryonic stem cells or any product containing human nonembryonic stem cells which has not been approved by the FDA or is not the subject of a clinical trial approved by the FDA.
- Compounds human nonembryonic stem cells from human nonembryonic cells or tissue into products by combining, mixing, or altering the ingredients of one or more drugs or products to create another drug or product.
- Manufactures, through recovery, processing, manipulation, enzymatic digestion, mechanical disruption, or a similar process, human nonembryonic stem cells from human nonembryonic cells or tissue into undifferentiated human nonembryonic stem cells, causing the cells to lose their original structural function so that the nonembryonic stem cells may be differentiated into specialized cell types.
- Dispenses human nonembryonic stem cells and products containing nonembryonic stem cells to any of the following, for a specific patient pursuant to a valid prescription from a licensed health care practitioner authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells:
  - A pharmacy permitted under ch. 465, F.S.;
  - A health care practitioner with privileges to practice at nonembryonic stem cell banks; or
  - A health care practitioner's office, a health care facility, or a treatment setting where the health care practitioner has privileges to practice, for office use.

The bill also defines the following specific terms relating to the making, storing and administration of nonembryonic stem cells:

- "Compounding" means combining, mixing, or altering the ingredients of one or more drugs or products to create another drug or product.
- "Dispense" has the same meaning as in s. 465.003(6), F.S.
- "Establishment" means a place of business which is at one general physical location and may extend to one or more contiguous suites, units, floors, or buildings operated and controlled exclusively by entities under common operation and control. The term includes multiple buildings with an intervening thoroughfare if the buildings are under common exclusive ownership, operation, and control. For purposes of permitting, each suite, unit, floor, or building must be identified in the most recent permit application;

- "Federal Act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ss. 301 et seq.; 52 Stat. 1040 et seq..
- "Minimally manipulated" means:
  - For structural tissue, processing that does not alter the original characteristics of the tissue which relate to the tissue's utility for reconstruction, repair, or replacement; or
  - For cells or nonstructural tissue, processing that does not alter the relevant biological characteristics of the cell or tissue; and
- "Office use" means the provision and administration of a drug, compounded drug, or compounded product to a patient by a health care practitioner in the practitioner's office or in a health care facility or treatment setting, including a hospital, ambulatory surgery center, or health care clinic licensed under chapter 395 or chapter 400. The term also includes the dispensing by a pharmacist at a NSCB that is also permitted as a pharmacy under ch. 465, F.S. to a NSCB within this state of any of the following:
  - Human nonembryonic stem cells;
  - A compounded drug containing human nonembryonic stem cells; or
  - A compounded product containing nonembryonic stem cells.

The bill requires the NSCB to:

- Adhere to the current good manufacturing practices for the collection, removal, manufacturing, processing, compounding, and implantation of nonembryonic stem cells, or products containing them, under Florida and federal law.
- Obtain a health care clinic license and register each establishment separately, unless:
  - The clinic is a facility licensed under chapter 395; or
  - The clinic is affiliated with an accredited medical school that provides training to medical students, residents, or fellows.
- Have a physician medical director, a full, active, and unencumbered license, who actively practices at the NSCB, and who is responsible for the NSCB's compliance with all licensure, operations and good manufacturing practices requirements.
- Notify the AHCA, in writing, on a form approved by the AHCA within 10 days after termination of a physician medical director; and notify the AHCA within 10 days after such termination of the identity of the new physician medical director who has assumed the responsibilities for the NSCB. Failure to have a physician medical director practicing at the location of the NSCB must be the basis for a summary suspension of the NSCB's license pursuant to s. 400.607 or s. 120.60(6), F.S.
- Maintain commercial and professional liability insurance in an amount not less than $250,000 per claim.
- Operate each establishment using the same name as the one used to obtain the health care clinic license; and requiring all invoices, packing slips, and other business records to list the same name.
- Obtain a pharmacy permit for each person and establishment before dispensing, offering office use for the compounding of human nonembryonic stem cells, or dispensing a compounded product for office use.

The bill authorizes a pharmacist at a NSCB, with a pharmacy permit, to dispense human nonembryonic stem cells, a compounded drug containing human nonembryonic stem cells; or a

compounded product containing human nonembryonic stem cells to another NSCB within the state, for office use.

The bill prohibits the sale or dispensing of human nonembryonic stem cells, a compounded drug containing human nonembryonic stem cells; or products containing human nonembryonic stem cells by any person or establishment, other than the NSCB or pharmacist at the NSCB that manufactured the human nonembryonic stem cells, the compounded drug, or product containing human nonembryonic stem cells, except that:

- A health care practitioner who requests the dispensing of the human nonembryonic stem cells, compounded drug, or compounded product from the manufacturing NSCB may sell or dispense such items to his or her patient if the health care practitioner is authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells; or
- A pharmacist, pharmacy, or establishment that requests the dispensing of the human nonembryonic stem cells, compounded drug, or compounded product from the manufacturing NSCB may sell or dispense such items to a health care practitioner who is authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells to patients.

The bill prohibits a physician, advanced practice registered nurse, or a physician assistant from practicing in a NSCB that is not licensed with the AHCA. The license of a health care practitioner who violates this paragraph is subject to disciplinary action by the appropriate regulatory board.

The bill requires health care practitioners to adhere to the applicable current good manufacturing practices for the collection, removal, manufacturing, processing, compounding, and implantation of stem cells or products containing stem cells pursuant to federal regulations.

The bill requires the AHCA to adopt rules necessary to administer the licensure and regulation of NSCBs, including, but not limited to, rules regarding all of the following, which must be consistent with the best practices specified in federal regulations:

- Advertising;
- NSCB procedures and protocols for the collection, manufacturing, storing, dispensing, and use of nonembryonic stem cells, drugs containing nonembryonic stem cells, and products containing nonembryonic stem cells in accordance with the applicable current best practices;
- Adverse incident reportings;
- Informed consent; and
- Recordkeeping, record retention, and availability of records for inspection.

The bill takes effect on July 1, 2020, contingent on SB 7066 or similar legislation taking effect on that same date, if such legislation is adopted in the same legislative session or an extension thereof and becomes 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:

CS/CS/SB 512 requires the Agency for Health Care Administration (AHCA) to license establishments meeting the definition of a nonembryonic stem cell bank (NSCB) as a health care clinic. NSCBs are required to maintain commercial and professional liability insurance in an amount not less than $250,000 per claim. These additional costs may result in an increase in the costs of NSCB's services to consumers. The AHCA estimates that 500 facilities may require a health care clinic license.

C. Government Sector Impact:

The AHCA estimates a recurring increase in workload and costs associated with the registration of NSCBs as health care clinics. Specifically, the AHCA estimates the need for three full-time equivalent positions and $285,007 in Fiscal Year 2020-2021, and a recurring $300,250 thereafter, to implement the bill's requirements.[47]

The anticipated increase in expenditures by the AHCA will be offset by the revenues collected under SB 7066, which is linked to the bill, from the 500 facilities that the AHCA estimates may require a health care clinic license under CS/SB 512. The AHCA estimates 500 additional health care clinics would result in the collection of $500,000 in annual licensure fees, based on spreading initial applicants over a two year period (250 per year), and $150,000 in biennial assessment fees.

[47] *Id*.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The AHCA recommends the term "Agency" should be defined as the Agency for Health Care Administration so it is clear what agency is impacted and has responsibility for rulemaking and other requirements of the bill.[48]

VIII. Statutes Affected:

This bill creates section 381.06017 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 20, 2020:
The committee substitute:

- Removes the requirement for nonembryonic stem cell banks licensed as health care clinics to pay all fees associated with licensure, registration, and inspection.
- Provides a contingent effective date based on SB 7066 or similar legislation taking effect on the same date, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

CS by Health Policy on February 4, 2020:
The CS:

- Creates s. 381.06017, F.S., rather than s. 381.4017, F.S., which authorizes NSCB's to operate in Florida;
- Requires NSCBs to register with the AHCA as a health care clinic, rather than the DOH;
- Defines an NSCB broadly, not just a facility that stores nonembryonic stem cells, but as any establishment that:
  - Manufactures, collects, or stores human embryonic stem cells;
  - Provides patient-specific health care services using human nonembryonic stem cells;
  - Advertises human nonembryonic stem cell services;
  - Preforms procedures that:
    1) Collects or stores human embryonic stem cells; or
    2) Use non-FDA approved human nonembryonic stem cells, alone, or as a compounded drug or product, to diagnose, cure, treat, provide therapy for, or to prevent injury or disease; or
  - Compounds human nonembryonic stem cells into a compounded drug or product.

[48] *Supra* note 1.

- Authorizes the administration of nonembryonic stem cells only by health care practitioners that the scope of the practitioner's license permits the prescribing and administering of human nonembryonic stem cells; and does not authorize:
  - The self-administration of nonembryonic stem cells; or
  - The administration of nonembryonic stem cells by just any person licensed or authorized to administer, or assist in the administration of, medications or health care;
- Does not authorize every pharmacy, owned or operated in Florida, to compound health care products using nonembryonic stem cells either alone or with other sterile ingredients.
- Does not authorize a person to import any sterile compound, drug, or other treatment containing nonembryonic stem cells if such compound, drug, or other treatment:
  - Was obtained legally from the jurisdiction from which it came; and
  - Is for personal use.
- Requires the NSCB to carry both commercial and liability insurance in an amount not less than $250,000 per claim, where the original bill did not specify limits; and
- Authorizes the AHCA to adopt rules necessary to administer the licensure and regulation of NSCBs.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 169 - 236

and insert:

(3) DISPENSING OF DRUGS OR COMPOUNDED DRUGS OR PRODUCTS.—

(a) A pharmacist at a nonembryonic stem cell bank that is also permitted as a pharmacy under chapter 465 may dispense any of the following to a stem cell bank within the state, for office use:

1. Human nonembryonic stem cells;

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2. A compounded drug containing human nonembryonic stem cells; or

3. A compounded product containing human nonembryonic stem cells.

(b) Human nonembryonic stem cells, compounded drugs containing human nonembryonic stem cells, or products containing human nonembryonic stem cells may not be sold or dispensed by any person or establishment other than the nonembryonic stem cell bank or pharmacist at the nonembryonic stem cell bank that manufactured the human nonembryonic stem cells or the compounded drug or product containing human nonembryonic stem cells, except that:

1. A health care practitioner who requests the dispensing of the human nonembryonic stem cells, compounded drug, or compounded product from the manufacturing nonembryonic stem cell bank may sell or dispense such items to his or her patient if the health care practitioner is authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells; or

2. A pharmacist, pharmacy, or establishment that requests the dispensing of the human nonembryonic stem cells, compounded drug, or compounded product from the manufacturing nonembryonic stem cell bank may sell or dispense such items to a health care practitioner who is authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells to patients.

(4) HEALTH CARE PRACTITIONER RESPONSIBILITIES.—

(a) A physician licensed under chapter 458 or chapter 459, an advanced practice registered nurse licensed under chapter

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464, or a physician assistant licensed under chapter 458 or chapter 459 may not practice in a nonembryonic stem cell bank that is not licensed with the agency as required by the rules adopted pursuant to s. 400.9925. The license of a health care practitioner who violates this paragraph is subject to disciplinary action by the appropriate regulatory board.

(b) In the performance of any procedure collecting, storing, using, or purporting to use nonembryonic stem cells or products containing nonembryonic stem cells, a health care practitioner must adhere to the applicable current good manufacturing practices for the collection, removal, manufacturing, processing, compounding, and implantation of stem cells or products containing stem cells pursuant to the federal act and 21 C.F.R., parts 1270-1271.

(5) RULEMAKING.—The agency shall adopt rules necessary to administer the licensure and regulation of nonembryonic stem cell banks, including, but not limited to, rules regarding all of the following, which must be consistent with the best practices specified in the federal act and 21 C.F.R., parts 1270-1271:

(a) Advertising.

(b) Nonembryonic stem cell bank procedures and protocols for the collection, manufacturing, storing, dispensing, and use of nonembryonic stem cells, drugs containing nonembryonic stem cells, and products containing nonembryonic stem cells in accordance with the applicable current best practices.

(c) Adverse incident reporting.

(d) Informed consent.

(e) Recordkeeping, record retention, and availability of

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records for inspection.

Section 2. This act shall take effect July 1, 2020, contingent on SB 7066 or similar legislation taking effect on that same date, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

And the title is amended as follows:

Delete lines 16 - 17

and insert:

the agency to adopt specified rules; providing a contingent effective date.

By the Committee on Health Policy; and Senator Hutson

588-03097-20 2020512c1

A bill to be entitled

An act relating to nonembryonic stem cell banks; creating s. 381.06017, F.S.; defining terms; providing that a nonembryonic stem cell bank that performs certain functions is deemed a clinic; requiring such nonembryonic stem cell banks to comply with specified requirements; prohibiting an entity other than certain nonembryonic stem cell banks and pharmacists from dispensing certain compounded drugs or products, with exceptions; prohibiting certain health care practitioners from practicing in a nonembryonic stem cell bank that is not licensed with the agency; providing for disciplinary action; requiring health care practitioners to adhere to specified regulations in the performance of certain procedures; requiring the agency to adopt specified rules; providing an effective date.

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

Section 1. Section 381.06017, Florida Statutes, is created to read:

381.06017 Nonembryonic stem cell banks; collection, manufacturing, storage, dispensing, and use of human nonembryonic stem cells.—

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

(a) "Compounding" means combining, mixing, or altering the ingredients of one or more drugs or products to create another drug or product.

588-03097-20 2020512c1

(b) "Dispense" has the same meaning as in s. 465.003(6).

(c) "Establishment" means a place of business which is at one general physical location and may extend to one or more contiguous suites, units, floors, or buildings operated and controlled exclusively by entities under common operation and control. The term includes multiple buildings with an intervening thoroughfare if the buildings are under common exclusive ownership, operation, and control. For purposes of permitting, each suite, unit, floor, or building must be identified in the most recent permit application.

(d) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ss. 301 et seq.; 52 Stat. 1040 et seq.

(e) "Minimally manipulated" means:

1. For structural tissue, processing that does not alter the original characteristics of the tissue which relate to the tissue's utility for reconstruction, repair, or replacement; or

2. For cells or nonstructural tissue, processing that does not alter the relevant biological characteristics of the cell or tissue.

(f) "Nonembryonic stem cell," also referred to as a "somatic stem cell" or an "adult human stem cell," means an allogenic or autologous cell that is undifferentiated and unspecialized and that has the ability to divide for indefinite periods of time in a medium and to become a specialized cell. The term includes a human nonembryonic cell that is altered or processed to become undifferentiated, losing its original structural function, so that it can be differentiated into a specialized cell type. The term does not include cells that are minimally manipulated or are only rinsed, cleaned, or sized and

remain differentiated.

(g) "Nonembryonic stem cell bank" means a publicly or privately owned establishment that does any of the following:

1. Collects and stores human nonembryonic stem cells for use in a product or patient-specific medical administration.

2. Provides patient-specific health care services using human nonembryonic stem cells.

3. Advertises human nonembryonic stem cell services, including, but not limited to, collection, manufacturing, storage, dispensing, use, or purported use of human nonembryonic stem cells or products containing human nonembryonic stem cells, which have not been approved by the United States Food and Drug Administration or are not the subject of clinical trials approved by the United States Food and Drug Administration and which are intended to diagnose, cure, mitigate, treat, provide therapy for, or prevent an injury or a disease.

4. Performs any procedure that is intended to:

a. Collect or store human nonembryonic stem cells for any purpose; or

b. Diagnose, cure, mitigate, treat, provide therapy for, or prevent an injury or a disease with the use or purported use of human nonembryonic stem cells or any product containing human nonembryonic stem cells which has not been approved by the United States Food and Drug Administration or is not the subject of a clinical trial approved by the United States Food and Drug Administration.

5. Compounds human nonembryonic stem cells from human nonembryonic cells or tissue into products by combining, mixing, or altering the ingredients of one or more drugs or products to

create another drug or product.

6. Manufactures, through recovery, processing, manipulation, enzymatic digestion, mechanical disruption, or a similar process, human nonembryonic stem cells from human nonembryonic cells or tissue into undifferentiated human nonembryonic stem cells, causing the cells to lose their original structural function so that the nonembryonic stem cells may be differentiated into specialized cell types.

7. Dispenses human nonembryonic stem cells and products containing nonembryonic stem cells to any of the following for a specific patient pursuant to a valid prescription from a licensed health care practitioner authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells:

a. A pharmacy permitted under chapter 465.

b. A health care practitioner with privileges to practice at nonembryonic stem cell banks.

c. A health care practitioner's office, a health care facility, or a treatment setting where the health care practitioner has privileges to practice, for office use.

(h) "Office use" means the provision and administration of a drug, compounded drug, or compounded product to a patient by a health care practitioner in the practitioner's office or in a health care facility or treatment setting, including a hospital, ambulatory surgery center, or health care clinic licensed under chapter 395 or chapter 400. The term also includes the dispensing by a pharmacist at a nonembryonic stem cell bank that is also permitted as a pharmacy under chapter 465 to a nonembryonic stem cell bank within this state of any of the

following:

1. Human nonembryonic stem cells.

2. A compounded drug containing human nonembryonic stem cells.

3. A compounded product containing nonembryonic stem cells.

(2) DUTIES AND REGISTRATION.—A nonembryonic stem cell bank that advertises, collects, stores, manufactures, dispenses, compounds, uses, or purports to use nonembryonic stem cells or products containing nonembryonic stem cells is deemed a clinic as defined in s. 400.9905 and must comply with all of the following requirements:

(a) Adhere to the applicable current good manufacturing practices for the collection, removal, manufacturing, processing, compounding, and implantation of nonembryonic stem cells or products containing nonembryonic stem cells pursuant to the federal act and 21 C.F.R., parts 1270-1271.

(b) Obtain a health care clinic license from the agency pursuant to s. 400.991 and part II of chapter 408 and register each establishment separately, unless:

1. The clinic is a facility licensed under chapter 395; or

2. The clinic is affiliated with an accredited medical school that provides training to medical students, residents, or fellows.

(c) Have a physician medical director who is responsible for complying with all requirements related to licensure, operation of a nonembryonic stem cell bank, and good manufacturing practices under this section, part X of chapter 400, and the federal act and 21 C.F.R., parts 1270-1271.

(d) Notify the agency in writing on a form approved by the

agency within 10 days after termination of a physician medical director and notify the agency within 10 days after such termination of the identity of the physician medical director who has assumed responsibility for that nonembryonic stem cell bank. Failure to have a physician medical director practicing at the location of the licensed nonembryonic stem cell bank shall be the basis for a summary suspension of the nonembryonic stem cell bank's license pursuant to s. 400.607 or s. 120.60(6).

(e) Require a physician medical director to have a full, active, and unencumbered license issued under chapter 458 or chapter 459 and to actively practice at the nonembryonic stem cell bank location for which he or she has assumed responsibility.

(f) Maintain commercial and professional liability insurance in an amount not less than $250,000 per claim.

(g) Operate each establishment using the same name as the one used to obtain the health care clinic license from the agency. All invoices, packing slips, and other business records must list the same name.

(h) Obtain a pharmacy permit for each person and establishment before dispensing, offering office use for the compounding of human nonembryonic stem cells, or dispensing a compounded product for office use.

(i) Pay all costs associated with licensure, registration, and inspection.

(3) DISPENSING OF DRUGS OR COMPOUNDED DRUGS OR PRODUCTS.—

(a) A pharmacist at a nonembryonic stem cell bank that is also permitted as a pharmacy under chapter 465 may dispense any of the following to a stem cell bank within the state, for

office use:

1. Human nonembryonic stem cells;

2. A compounded drug containing human nonembryonic stem cells; or

3. A compounded product containing human nonembryonic stem cells.

(b) Human nonembryonic stem cells, compounded drugs containing human nonembryonic stem cells, or products containing human nonembryonic stem cells may not be sold or dispensed by any person or establishment other than the nonembryonic stem cell bank or pharmacist at the nonembryonic stem cell bank that manufactured the human nonembryonic stem cells or the compounded drug or product containing human nonembryonic stem cells, except that:

1. A health care practitioner who requests the dispensing of the human nonembryonic stem cells, compounded drug, or compounded product from the manufacturing nonembryonic stem cell bank may sell or dispense such items to his or her patient if the health care practitioner is authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells; or

2. A pharmacist, pharmacy, or establishment that requests the dispensing of the human nonembryonic stem cells, compounded drug, or compounded product from the manufacturing nonembryonic stem cell bank may sell or dispense such items to a health care practitioner who is authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells to patients.

(4) HEALTH CARE PRACTITIONER RESPONSIBILITIES.—

(a) A physician licensed under chapter 458 or chapter 459, an advanced practice registered nurse licensed under chapter 464, or a physician assistant licensed under chapter 458 or chapter 459 may not practice in a nonembryonic stem cell bank that is not licensed with the agency as required by the rules adopted pursuant to s. 400.9925. The license of a health care practitioner who violates this paragraph is subject to disciplinary action by the appropriate regulatory board.

(b) In the performance of any procedure collecting, storing, using, or purporting to use nonembryonic stem cells or products containing nonembryonic stem cells, a health care practitioner must adhere to the applicable current good manufacturing practices for the collection, removal, manufacturing, processing, compounding, and implantation of stem cells or products containing stem cells pursuant to the federal act and 21 C.F.R., parts 1270-1271.

(5) RULEMAKING.—The agency shall adopt rules necessary to administer the licensure and regulation of nonembryonic stem cell banks, including, but not limited to, rules regarding all of the following, which must be consistent with the best practices specified in the federal act and 21 C.F.R., parts 1270-1271:

(a) Advertising.

(b) Nonembryonic stem cell bank procedures and protocols for the collection, manufacturing, storing, dispensing, and use of nonembryonic stem cells, drugs containing nonembryonic stem cells, and products containing nonembryonic stem cells in accordance with the applicable current best practices.

(c) Adverse incident reporting.

(d) Informed consent.

(e) Recordkeeping, record retention, and availability of records for inspection.

Section 2. This act shall take effect July 1, 2020.

2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

BILL INFORMATION	
BILL NUMBER:	SB 512
BILL TITLE:	Nonembryonic Stem Cells
BILL SPONSOR:	Senator Travis Hutson
EFFECTIVE DATE:	July 1, 2020

COMMITTEES OF REFERENCE
1) Health Policy
2) Appropriations
3) Rules
4)
5)

CURRENT COMMITTEE
Health Policy

SIMILAR BILLS	
BILL NUMBER:	N/A
SPONSOR:	N/A

PREVIOUS LEGISLATION	
BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A

IDENTICAL BILLS	
BILL NUMBER:	HB 313
SPONSOR:	Representative Byron Donalds

LAST ACTION:	N/A

Is this bill part of an agency package?
Y ___ N __X_

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	
LEAD AGENCY ANALYST:	Jack Plagge, Ruby Grantham, Noel Lawrence
ADDITIONAL ANALYST(S):	Ferronda Burke, Jessica Munn
LEGAL ANALYST:	
FISCAL ANALYST:	

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill (CS for SB 512) creates section 381.4017 in order to authorize the administration of nonembryonic stem cells and the use of such cells in health care products. The proposed language authorizes imports of any sterile compound, drug, or other treatment containing nonembryonic stem cells under certain circumstances and outlines requirements for stem cell bank liability insurance, medical director requirements, etc. The bill requires the Agency for Health Care Administration (AHCA) to adopt rules.

The bill requires the agency to license establishments meeting the definition of a nonembryonic stem cell bank (NSCB) as a health care clinic under Chapter 400, Part X, Florida Statutes (F.S.). In order to license NSCBs, the Agency must write rules consistent with the Federal Food, Drug, and Cosmetic Act and Chapter 21 Code of Federal Regulations, parts 1270 and 1271, and include criteria addressing advertising, procedures and protocols, incident reporting, informed consent, and recordkeeping. Only procedures, protocols, and recordkeeping criteria are currently part of health care clinic licensure.

The fiscal impact on the Agency is difficult to determinate. Based on Florida's population and the number of existing providers and physician offices, the Agency estimates up to 500 facilities may require a health care clinic license. The Agency will have recurring and non-recurring costs for increased workload involved with licensing and inspecting NSCBs. The Agency will also incur non-recurring costs for rulemaking and updating Agency systems. Licensure fees paid will offset the Agency's costs.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Regulation of Stem Cells

Stem cells, stem cell therapy and stem cell banks are not currently regulated in the State of Florida. However certain stem cells are regulated under 21 C.F.R. 1271 by the U.S. Food and Drug Administration (FDA). The FDA regulates articles containing or consisting of human cells or tissues that are intended for implantation, transplantation, infusion or transfer into a human recipient as human cells, tissues, or cellular or tissue-based products (HCT/Ps) which are known as stem cells.[1]

The U.S. Center for Biologics Evaluation and Research (CBER) under the FDA regulates HCT/Ps. The FDA has published comprehensive requirements regarding tissue practice, donor screening and donor testing. Regulatory requirements for allogeneic products are more extensive than requirements for autologous products. Autologous stem cell transplants involve transferring healthy stem cells from one part of a person's body to the part of their body with diseased stem cells; allogeneic stem cell transplants involve transferring stem cells from a healthy donor to a recipient needing to replace damaged stem cells.[2, 3]

Stem cells come from different sources and are used in a variety of procedures or applications. Stem cells from bone marrow, umbilical cord blood or peripheral blood are routinely used in transplant procedures to treat patients with cancer and other disorders of the blood and immune system. Stem cells sourced from cord blood for unrelated allogeneic use also are regulated by the FDA; a license is required for distribution of these products. The FDA requires a review process in which manufacturers must show how products will be manufactured so that the FDA can make certain that appropriate steps are taken to assure purity and potency.

The only stem cell-based products that are FDA-approved for use in the United States consist of blood-forming stem cells (hematopoietic progenitor cells) derived from cord blood.[4] Stem cell clinics may advertise stem cell clinical trials without submitting an Investigational New Drug application (IND) and when clinical trials are not conducted under an IND, it means that the FDA has not reviewed the experimental therapy to help make sure that the stem cell therapies are reasonably safe.[5]

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[1] 21 C.F.R. 1271.3(d).
[2] https://www.mayoclinic.org/tests-procedures/autologous-stem-cell-transplant/pyc-20384859
[3] https://www.mayoclinic.org/tests-procedures/allogeneic-stem-cell-transplant/pyc-20384863
[4] U.S. Department of Health and Human Services, Food and Drug Administration, *FDA Warns About Stem Cell Therapies,* https://www.fda.gov/consumers/consumer-updates/fda-warns-about-stem-cell-therapies, Accessed on February 5, 2020
[5] U.S. Department of Health and Human Services, Food and Drug Administration, *FDA Warns About Stem Cell Therapies,* https://www.fda.gov/consumers/consumer-updates/fda-warns-about-stem-cell-therapies, Accessed on February 5, 2020

Potential safety concerns for unproven treatments include:[6]

- Administration site reactions,
- The ability of cells to move from placement sites and change into inappropriate cell types or multiply,
- Failure of cells to work as expected, and
- The growth of tumors.

The FDA has the authority to take administrative and judicial actions, including criminal enforcement, when stem cell products are used in an unapproved manner or when they are processed in ways that are more than minimally manipulated.[7] In 2019, U.S. District Judge Ursula Ungaro of the Southern District of Florida granted the government's motion for summary judgment against US Stem Cell Clinic LLC, of Weston, Florida, and US Stem Cell Inc., of Sunrise, Florida, and their Chief Scientific Officer Kristin Comella, Ph.D. The court held that the defendants in that case adulterated and misbranded a stem cell drug product made from a patient's adipose tissue.[8] On behalf of the FDA, the U.S. Department of Justice initiated this action against US Stem Cell Clinic LLC and US Stem Cell Inc., and Comella in May 2018, seeking a permanent injunction to stop the defendants' illegal behavior after several attempts to provide the clinic and the individual defendants the opportunity to work with the Agency to come into compliance with FDA regulations and protect patients from harm.[9]

Stem cells for clinical use are currently procured from living donors only, limiting the number of available products.[10] Obtaining organs and tissues for transplantation from deceased donors is a widely accepted strategy; however, during the routine deceased donor process, procuring the bone marrow and adipose tissue is not performed.[11]

Health Care Clinic Licensure

The Health Care Clinic Act, Chapter 400, Part X, F.S. provides for the licensure of entities that provide health care services to individuals and which tender charges for reimbursement for such services. In order to reduce duplicative licensure requirements, the law provides over 14 exemptions per s. 400.9905(4) (a) - (n), F.S. Most of these exemptions are provided to entities already regulated by the Agency as a health care provider for licensure and/or federal certification purposes; health care establishments or professions otherwise regulated by the Department of Health (DOH) or the Department of Children and Families (DCF); non-profit entities; or, entities with substantial financial commitment. Entities wholly owned and operated by persons licensed under chapter 458, F.S. (Medical Doctors) and chapter 459 (Osteopathic Physicians) providing services within their scope of practice are included in those currently exempt from health care clinic licensure.

An entity required to be licensed under Chapter 400, Part X, F.S. must apply for licensure on forms prescribed by the Agency. The licensure fee is $2,000 per biennium. The Agency also assesses each clinic $300 per biennium, pursuant to s. 408.033, F.S. Additional clinic costs are associated with compliance with the background screening requirements of Chapters 435 and 408, Part II, F.S. Background screening costs vary based on the number of staff required to be screened and the vendor used. An entity meeting one or more exemptions may apply for a certificate of exemption. The cost for a certificate of exemption is $100 per biennium.

A licensed health care clinic must continually engage the day-to-day supervision of a single medical director. A medical director is a physician who is employed or under contract with the clinic and who maintains a full and unencumbered physician's license in accordance with chapter 458 [Medical Practice, M.D.], chapter 459 [Osteopathic Medicine, D.O.],

[6] U.S. Department of Health and Human Services, Food and Drug Administration, *FDA Warns About Stem Cell Therapies,* https://www.fda.gov/consumers/consumer-updates/fda-warns-about-stem-cell-therapies, Accessed on February 5, 2020

[7] U.S. Food and Drug Administration, Press Announcements, *Federal court issues decision holding that US Stem Cell clinics and owner adulterated and misbranded stem cell products in violation of the law,* https://www.fda.gov/news-events/press-announcements/federal-court-issues-decision-holding-us-stem-cell-clinics-and-owner-adulterated-and-misbranded-stem, Accessed on February 6, 2020

[8] U.S. Food and Drug Administration, Press Announcements, *Federal court issues decision holding that US Stem Cell clinics and owner adulterated and misbranded stem cell products in violation of the law,* https://www.fda.gov/news-events/press-announcements/federal-court-issues-decision-holding-us-stem-cell-clinics-and-owner-adulterated-and-misbranded-stem, Accessed on February 6, 2020

[9] U.S. Food and Drug Administration, Press Announcements, *Federal court issues decision holding that US Stem Cell clinics and owner adulterated and misbranded stem cell products in violation of the law,* https://www.fda.gov/news-events/press-announcements/federal-court-issues-decision-holding-us-stem-cell-clinics-and-owner-adulterated-and-misbranded-stem, Accessed on February 6, 2020

[10] Zimmerlin, L., "Structural and Functional Characterization of Deceased Donor Stem Cells: A Viable Alternative to Living Donor Stem Cells", *Stem Cells International,Tissue-Derived Stem Cell Research*, Volume 2019, Article 5841587, https://www.hindawi.com/journals/sci/2019/5841587/#B13, Accessed on February 5, 2020

[11] Zimmerlin, L., "Structural and Functional Characterization of Deceased Donor Stem Cells: A Viable Alternative to Living Donor Stem Cells", *Stem Cells International,Tissue-Derived Stem Cell Research*, Volume 2019, Article 5841587, https://www.hindawi.com/journals/sci/2019/5841587/#B13, Accessed on February 5, 2020

chapter 460 [Chiropractic Medicine, D.C.], or chapter 461 [Podiatric Medicine, D.P.M.]. If the clinic does not provide services pursuant to the respective physician practices acts listed above, it may appoint a Florida-licensed health care practitioner as a clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license.

Among other duties, the medical or clinic director must agree in writing to accept legal responsibility for the following activities on behalf of the clinic:

- Ensure all practitioners providing health care services maintain a current active and unencumbered Florida license;
- Review any patient referral contracts or agreements executed by the clinic;
- Ensure all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided;
- Serve as the clinic records owner (s.456.057);
- Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements for all health care professionals (chapter 456), the respective practice acts, and rules adopted under the Health Care Clinic and Health Care Licensing Procedures Acts (chapters 400, Part X and 408, Part II);
- Conduct systematic reviews of clinic billings to ensure the billings are not fraudulent or unlawful and take immediate corrective action if needed; and
- Publish and post a schedule of charges for the medical services offered to patients.

A medical or clinic director may supervise up to five health care clinics provided the cumulative total of employees and persons under contract does not exceed 200. A medical or clinic director may not supervise a health care clinic more than 200 miles from any other health care clinic supervised by the same medical or clinic director.

As of February 5, 2020, there are 2,473 health care clinics licensed by the Agency and 4,226 providers an active certificate of exemption with the Agency. The Agency does not collect information that would currently identify licensed health care clinics or exempt clinics that are NSCBs.

Tissue Bank Certification

Chapter 765, Part V[12], F.S. contains provisions for the donation and procurement of human organs and tissues. Procurement is defined in section 765.511[13], F.S. as “any retrieval, recovery, processing, storage, or distribution of human organs or tissues for transplantation, therapy, research, or education.”

Tissue banks are currently certified under Chapter 765, Part V, Florida Statutes. A tissue bank is defined in section 765.511(23) as an entity that is accredited by the American Association of Tissue Banks or otherwise regulated under federal or state law to engage in the retrieval, screening, testing, processing, storage, or distribution of human tissue. Processing, as defined in section 59A-1.003(24), F.A.C., includes identification of the organ or tissue, organ or tissue treatment, preparation of components from such organ or tissue, testing, labeling, and associated record-keeping.

Chapter 59A-1, F.A.C. outlines the requirements for certification as a tissue bank. Currently, Rule 59A-1.003, F.A.C. defines tissue as any non-visceral collection of human cells and their associated intercellular substances and defines a tissue bank as a public or private entity which is involved in at least one of the following activities: a) retrieving, processing, storing, or distributing viable or nonviable human tissues to clinicians who are not involved in the procurement process; b) retrieving, processing, and storing human tissues in one institution and making these tissues available to clinicians in other institutions; or c) retrieving, processing, and storing human tissues for individual depositors and releasing these tissues to clinicians at the depositor’s request. Establishments such as transplantation centers and other hospitals which store tissue only for a short term pending scheduled surgery within the same facility but do not otherwise participate in retrieving, processing, or distributing tissue would not be regulated under these provisions.

Rule 59A-1.005, F.A.C. sets forth the standards for tissue banks including but not limited to the following:

- Organizational requirements

[12] Chapter 795, Part V, Anatomical Gifts

[13] Chapter 795.511, Definitions

- Safety and environmental control
- Facilities and equipment
- Ethical standards
- Organ and tissue procurement procedures
- Donor selection procedures
- Quality assurance and recall procedures
- Notification and documentation requirements, data collection
- Medical director requirements and responsibilities
- Retrieval and processing procedures
- Testing and screening requirements

Tissue bank certification is required for a person or entity engaging in the procurement of cadaveric tissue. Tissue banks are subject to inspection by the Agency at initial licensure and on a biennial basis. There is also an annual reporting requirement of procurement activities that includes the numbers and disposition of tissues procured and revenues and expenses associated with procurement activities. Tissue banks are also required to report adverse reactions to the Agency, including a follow-up analysis to determine the cause of the reaction. Adverse reactions can be reported as bacterial infection, transmission of a viral disease or other cause and must include information on the tissue identification and recovery, recipient, transplanting surgeon, quality management action plan and determination of cause.

2. EFFECT OF THE BILL:

The bill creates section 381.4017, F.S. and establishes requirements for the administration of nonembryonic stem cells and the use of such cells in health care products; and provides definitions to be used in this section. The bill provides that a nonembryonic stem cell bank (NSCB) that collects, stores, manufactures, dispenses, compounds and uses or purports to use nonembryonic stem cells and products containing nonembryonic stem cells is deemed a health care clinic and requires that NSCB comply with specified requirements, including:

- Commercial and professional liability insurance coverage
- Medical director appointment, qualifications and notification
- Adherence to manufacturing processes for the collection, removal, manufacturing, processing, compounding, and implantation of nonembryonic stem cells

The proposed language outlines requirements for dispensing drugs, compounded drugs, or products containing nonembryonic stem cells and prohibits an entity other than certain NSCBs and pharmacists from dispensing certain compounded drugs or products, with exceptions. The bill also prohibits certain health care practitioners from practicing in a NSCB that is not licensed with the Agency and provides for disciplinary action by the appropriate regulatory board for violations.

The bill requires health care practitioners to adhere to specified regulations in the performance of certain procedures. The "Agency" is required to adopt rules to implement applicable rules, however the bill does not clarify that the rulemaking authority is the Agency for Health Care Administration.

Health Care Clinic

The bill requires NSCBs to apply for a health care clinic license and meet current licensure requirements and additional requirements to be written by the Agency. The Agency must amend its current licensure application in order to distinguish NSCBs from other health care clinics and record the information into its databases (Versa Regulation, Online Licensing System, Laserfiche, the Florida Health Finder website, and the ASPEN suite of programs used for survey tracking). The updates to the application, Agency systems, and rule-writing will use available resources.

The bill provides for only two exemptions from licensure as a health care clinic:

1. facilities licensed under Chapter 395 (hospitals and ambulatory surgical centers); and
2. clinical facilities affiliated with an accredited medical school that provides training to medical students, residents, or fellows.

These exemptions are consistent with s. 400.9905(4)(a)-(d), and 400.9905(4)(h), respectively. Applicants currently eligible for existing health care clinic licensure exemptions, other than the two listed above, would no longer qualify if they operate as an NSCB.

The Agency is unable to determine the number of NCSBs currently operating in Florida, the number of NCSBs already licensed as health care clinics, or if any establishments issued a certificate of exemption from the health care clinic licensing requirements meet the definition of NSCB. Taking into account factors such as the population of Florida, the

number of licensed health care clinics and exempted health care clinics in the State of Florida, the definition of nonembryonic stem cell bank, the Agency estimates this bill has the potential to require up to 500 providers to apply for licensure as a health care clinic.

The bill requires NSCBs to meet several additional requirements. The following table lists the requirements compared to existing health care clinic requirements.

NSCB Licensure Requirements	**Current Health Care Clinic Requirement**
Definition of establishment, meaning the place of business allows for multiple buildings with an intervening thoroughfare.	Each health care clinic location must be separately licensed**.**
Have a pharmacy permit under chapter 465, F.S. for each person (pharmacist) and establishment.	HCCs may provide pharmacy services. A pharmacy permit is not a condition for licensure.
Adhere to the good manufacturing practices in the Federal Food, Drug, and Cosmetic Act and Chapter 21 Code of Federal Regulations, parts 1270 and 1271	No requirement
Have a physician medical director at all times to oversee compliance with all requirements, including the good manufacturing practices.	Have a medical director or clinical director to oversee billing practices and maintenance of medical records.
Notify the Agency within 10 days of a medical director change by submitting an updated licensure application.	A change of personnel may be submitted within 21 days of occurrence.
Failure to have a medical director is cause for summary suspension. NOTE: The bill incorrectly references s. 400.607, F.S., which is applicable to hospices. The correct reference is s. 400.9915, F.S.	Failure to have a medical director is grounds for emergency suspension pursuant to s. 400.9915, F.S. The Agency may also deny an application, revoke or suspend the license and administer a fine up to $5000 pursuant to s. 400.995, F.S. Additional authority resides in 408, part II, F.S.
Medical director must have a full, active unencumbered medical license.	Same
Maintain commercial and professional liability insurance in the amount of $250,000 per claim	No requirement
Operate each establishment using the same name as the health care clinic license.	Same
Pay all costs associated with licensure, registration, and inspection.	Pay licensure fee and biennial assessment fee. There are no inspection fees.
Adverse incident reporting	No requirement

The bill requires nonembryonic stem cell banks (NSCBs) to be licensed as health care clinics. Health care clinic (HCC) licensure does not include clinical standards; regulations include financial viability review based on a projected business plan, criminal background checks for owners and employees, and an on-site visit. By requiring additional regulations within the HCC license specific to NSCBs that are not currently required of all other HCCs, the bill creates a new licensure program within the HCC structure.

The bill does not provide language identifying how the stem cells are to be procured, the type of tissue that stem cell products are harvested from and whether the tissue will come from a living donor, deceased donor, or both. Currently, the only FDA approved stem cell products are derived from cord blood. Nonembryonic somatic or adult stem cells can be harvested from different sources including bone marrow and adipose (fatty) tissue. While tissue banks currently engage in the retrieval, screening, testing, processing, storage or distribution of human cadaveric tissue, since nonembryonic stem cells are derived from tissue, a NSCB is more characteristic of a tissue bank than a health care clinic. Tissue banks require certification in accordance with section 765.541, F.S. and Rule 59A-1.004, F.A.C. and are subject to the standards contained within chapter 59A-1, F.A.C. As such, it would be more appropriate to require NSCBs to be licensed as tissue banks, providing specific regulations under the tissue bank licensure to include non-cadaveric tissue.

The duties associated with expanding the health care clinic program include rule promulgation, application processing, background screening, inspections and complaints with the Agency requesting three FTEs to implement this bill – one surveyor (Health Facility Evaluator II) and two licensure staff (Health Services & Facilities Consultant). Rules will have to be promulgated and forms incorporated therein. Changes to the licensure database, including the online licensing program, will need to be implemented. A survey protocol specific for the additional requirements for NSCBs will have to be established, and if accreditation is allowed accrediting organizations will have to provide information to the Agency as

evidence of comparable standards in order to be recognized as a viable accrediting organization. The rule promulgation process will begin July 1, 2020. Fees include an application fee of $2,000 and a biennial assessment of $300 per s. 408.033, F.S.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y X___ N ___

If yes, explain:	The Agency is directed to write rules for health care clinics operating as nonembryonic stem cell banks.
Is the change consistent with the agency's core mission?	Y ___ N _X__
Rule(s) impacted (provide references to F.A.C., etc.):	59A-33, F.A.C.

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 __X_

If yes, provide a description:	NA
Date Due:	NA
Bill Section Number(s):	NA

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC.? REQUIRED BY THIS BILL? Y ___ N _X__

Board:	NA
Board Purpose:	NA
Who Appointments:	NA
Appointee Term:	NA
Changes:	NA
Bill Section Number(s):	NA

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ___ N X___

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 _X__ N ___

Revenues:	Licensure fees would be collected every two years from applicants. Estimating 500 additional health care clinics would result in the collection of $500,000 in licensure fees annual, based on spreading initial applicants over a two year period (250 per year).
Expenditures:	Application processing: The Agency assigned 5 FTE (Health Services & Facilities Consultants or HSFC) to process initial, renewal, and change of ownership applications submitted by health care clinics during calendar years 2018 and 2019. There were 2,994 initial, renewal, and change of ownership applications processed during this biennium, averaging nearly 600 applications per HSFC (2994 applications ÷ 5 HSFC = 598.8). The number of additional HSFC needed to process 500 applications per biennium will be one per year. Surveying: On average, one Health Facility Evaluator II (HFE II) is able to complete 1.6 health care clinic surveys per day. Given the additional licensing requirements for NSCBs, inspections are expected to take longer than a typical health care clinic, so estimates for NSCBs are 1 inspection per day. Accounting for holidays, paid leave, and training, an HFE II has 160 days per year to conduct on-site surveys (4 days per week X 40 weeks = 160 survey days). In addition to licensing inspections, complaints made the Agency will also require onsite inspection; based on 50 complaints per year, the agency estimates 300 inspections each year (250 biennial licensure inspections and 50 complaints). The Agency would require two HFE II's to perform the inspections for this program (300 inspections/ 160 per staff per year). The majority of health care clinics are located in Miami-Dade County so one HFE II position will require an increased base pay (Competitive Area Differential).
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	NA

FISCAL IMPACT:	**Year 1 (FY 2020-21)**	**Year 2 (FY 2021-22)**	**Year 3 (FY 2022-23)**

Non-Recurring Impact:

Expenditures:

Expense (Agency Standard Expense Package)							
Professional Staff	3.00	@	$	4,171	$	12,513	
Support Staff	0.00	@		3,741		-	
Total Non-Recurring Expense	**3.00**				**$**	**12,513**	
Operating Capital Outlay (Agency Standard Operating Capital Outlay Package)							
Microsoft Surface Pro 7, case, keyboard, pen, portable printer	2	@	$	1,365	$	2,730	
-	-	@		-		-	

Total Operating Capital Outlay					**$**	**2,730**		
Total Non-Recurring Expenditures					**$**	**15,243**		

Recurring Impact:

Revenues:								
License Application Fee for 500 Facilities ($2,000/facility)					$	500,000	$ 500,000	$ 500,000
-						-	-	-
-						-	-	-
-						-	-	-
-						-	-	-
Total Recurring Revenues					**$**	**500,000**	**$ 500,000**	**$ 500,000**
Expenditures:								
Salaries	**Class Code**	**FTEs**	**Pay Grade**	**Rate**				
Health Services & Facility Consultant	5894	1.00	24	41,106	$	59,351	$ 59,351	$ 59,351
Health Facility Evaluator II	5620	1.00	21	34,634		50,007	50,007	50,007
Health Facility Evaluator II	5620	1.00	21	35,595		51,394	51,394	51,394
-				-		-	-	-
-				-		-	-	-
-				-		-	-	-
-				-		-	-	-
-				-		-	-	-
-				-		-	-	-
Total Salary and Benefits		**3.00**		**111,335**	**$**	**160,751**	**$ 160,751**	**$ 160,751**
OPS		**FTEs**						
-		0.00			$	-	$ -	$ -
-		0.00				-	-	-
-		0.00				-	-	-
-		0.00				-	-	-
Total OPS		**0.00**			**$**	**-**	**$ -**	**$ -**
Expenses								
Professional Staff		3.00	@	$ 6,004	$	18,012	$ 18,012	$ 18,012
Support Staff		0.00	@	5,107		-	-	-
Surveyor Travel						20,000	20,000	20,000
-						-	-	-
-						-	-	-
Total Expenses					**$**	**38,012**	**$ 38,012**	$ 38,012
Human Resources Services								
FTE Positions		3.00	@	$ 329	$	987	$ 987	$ 987

OPS Positions	0.00	@	107		-	-	-
Total Human Resources Services				**$**	**987**	**$ 987**	**$ 987**
Special Categories/Contracted Services							
-				$	-	$ -	$ -
-						-	-
-						-	-
-						-	-
-						-	-
-						-	-
-						-	-
-						-	-
Total Special Categories/Contracted Services				**$**	**-**	**$ -**	**$ -**
Total Recurring Expenditures				**$**	**199,750**	**$ 199,750**	**$ 199,750**

Total Revenues and Expenditures:

Sub-Total Recurring Revenues	$ 500,000	$ 500,000	$ 500,000
Total Revenues	**$ 500,000**	**$ 500,000**	**$ 500,000**
Sub-Total Non-Recurring Expenditures	$ 15,243	$ -	$ -
Sub-Total Recurring Expenditures	199,750	199,750	199,750
Total Expenditures	**$ 214,993**	**$ 199,750**	**$ 199,750**
Net Impact (Total Revenues minus Total Expenditures)	**$ 285,007**	**$ 300,250**	**$ 300,250**

Net Impact (By Fund)

Health Care Trust Fund (2003)	$ 285,007	$ 300,250	$ 300,250
-	-	-	-
-	-	-	-
-	-	-	-
Net Impact (By Fund)	**$ 285,007**	**$ 300,250**	**$ 300,250**

3. DOES THE BILL HAVE A THE FISCAL IMPACT TO THE PRIVATE SECTOR? Y ___ N _X__

Revenues:	Unknown
Expenditures:	NA
Other:	NA

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ___ N _X__

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y _X__ N ___

If yes, describe the anticipated impact to the agency including any fiscal impact.	Updates to Versa Regulation and online licensing will need to match changes to the application. Additional license modifiers and data entry fields will need to be implemented.

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ___ N _X__

If yes, describe the anticipated impact including any fiscal impact.	NA

ADDITIONAL COMMENTS

Recommend licensure as a tissue bank instead of a health care clinic.

The term "Agency" should be defined as Agency for Health Care Administration so it is clear what agency is impacted and has responsibility for rulemaking and other requirements of this bill.

LEGAL – GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	

The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 6, 2020

I respectfully request that **Senate Bill # 512**, relating to Nonembryonic Stem Cells, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Travis Hutson
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

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 700
INTRODUCER:	Appropriations Committee; Criminal Justice Committee; and Senators Perry, Pizzo, Braynon, and others
SUBJECT:	Juvenile Diversion Program Expunction
DATE:	February 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	**Fav/CS**
2.	Dale	Jameson	ACJ	**Recommend: Favorable**
3.	Dale	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 700 amends section 943.0582, Florida Statutes, to permit juvenile diversion expunction for any offense, including felony offenses. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, this bill amends section 985.126, Florida Statutes, to permit a juvenile who completes a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program.

This bill may have a negative fiscal impact on the Florida Department of Law Enforcement (FDLE). See Section V. Fiscal Impact Statement.

The effective date of the bill is January 1, 2020.

II. Present Situation:

Juvenile Criminal History Records

In contrast to adult criminal history records,[1] which are generally accessible to the public, Florida law treats juvenile offender records that are in the jurisdiction of juvenile courts differently, making such records confidential and exempt from public disclosure.[2]

Such records that are confidential and exempt information may be disclosed only to:

- Authorized personnel of the court;
- The Department of Juvenile Justice (DJJ) and its designees;
- The Department of Corrections;
- The Florida Commission on Offender Review;
- Law enforcement agents;
- School superintendents and their designees;
- Any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile; and
- Others entitled under ch. 985, F.S., to receive that information, or upon order of the court.[3]

However, the following exceptions apply:

- The name, photograph, address, and crime or arrest report of a juvenile is not considered confidential and exempt if the juvenile has been:
  - Taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;
  - Charged with a violation of law which, if committed by an adult, would be a felony;
  - Found to have committed an offense which, if committed by an adult, would be a felony; or
  - Transferred to adult court pursuant to part X of ch. 985, F.S.;
- A law enforcement agency may release a copy of the juvenile offense report to the victim of the offense;[4]
- A law enforcement agency must notify the superintendent of schools that a juvenile is alleged to have committed a delinquent act when a juvenile of any age is taken into custody for an offense that would have been a felony if committed by an adult, or a crime of violence;[5]

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[1] "Criminal history record" means any nonjudicial record maintained by a criminal justice agency containing criminal history information. Section 943.045(6), F.S.

[2] Section 985.04(1)(a), F.S. Custodians of records designated as "confidential and exempt" may not disclose the record except under circumstances specifically defined by the Legislature.

[3] Section 985.04(1)(b), F.S.

[4] Information gained by the victim pursuant to ch. 985, F.S., including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies. Section 985.04(3), F.S.

[5] When a juvenile of any age is formally charged by a state attorney with a felony or a delinquent act that would be a felony if committed by an adult, the state attorney must notify the superintendent of the juvenile's school that the juvenile has been charged with such felony or delinquent act. The information obtained by the superintendent of schools must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the juvenile and the director of transportation. The principal must immediately notify the juvenile's classroom teachers, the juvenile's assigned bus driver, and any other school personnel whose duties include direct supervision of the juvenile. Section 985.04(4)(b), F.S.

- Records maintained by the DJJ, including copies of records maintained by the court, which pertain to a juvenile found to have committed a delinquent act which, if committed by an adult, would be a crime specified in s. 435.04, F.S., may not be destroyed for 25 years after the juvenile's final referral to the DJJ, except in cases of the death of the juvenile; and
- Records in the custody of the DJJ may be inspected only upon order of the Secretary or his or her authorized agent by persons who have sufficient reason and upon such conditions for their use and disposition as the secretary or his or her authorized agent deems proper.[6]

In these instances, the criminal history information[7] of a juvenile will be available to:

- A criminal justice agency for criminal justice purposes on a priority basis and free of charge;
- The person to whom the record relates, or his or her attorney;
- The parent, guardian, or legal custodian of the person to whom the record relates, provided such person has not reached the age of majority, been emancipated by a court, or been legally married; or
- An agency or entity specified in ss. 943.0585(4) or 943.059(4), F.S., for the purposes specified therein, and to any person within such agency or entity who has direct responsibility for employment, access authorization, or licensure decisions.[8]

Records pertaining to juveniles committed to or supervised by the DJJ are retained until a juvenile reaches the age of 24 years or 26 years in the case of a serious or habitual delinquent child, and the destruction of such records are governed by ch. 943, F.S.[9]

Juvenile Diversion Program Expunction

The exceptions to accessibility of a criminal history record do not apply if the record has been sealed[10] or expunged.[11] The expunction of a criminal history record is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody of the record.[12] The following are authorized expungement processes for the criminal history record of a juvenile:

- Juvenile diversion;[13]
- Automatic juvenile;[14] and

[6] Section 985.04, F.S.
[7] "Criminal history information" means information collected by criminal justice agencies on persons, which information consists of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and the disposition thereof. The term does not include identification information, such as biometric records, if the information does not indicate involvement of the person in the criminal justice system. Section 943.045(5), F.S.
[8] Section 943.053(3)(c)1.a.-d., F.S.
[9] Section 985.04(7)(b), F.S.
[10] "Sealing of a criminal history record" means the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein. Section 943.045(19), F.S.
[11] Section 943.053(3)(b), F.S.
[12] Criminal history records in the custody of the FDLE must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction. Section 943.045(16), F.S.
[13] Section 943.0582, F.S.
[14] Section 943.0515, F.S.

- Early juvenile.[15]

Diversion refers to a program that is designed to keep a juvenile from entering the juvenile justice system through the legal process.[16] The term diversion has been broadly used over the years, but typically refers to the placement of an individual on a track that is less restrictive and affords more opportunities for rehabilitation and restoration. Whether it is a prearrest or postarrest diversion program, the goal of the program is to maximize the opportunity for success and minimize the likelihood of recidivism.[17]

There are certain enumerated diversion programs eligible for diversion expunction under s. 943.0582, F.S. The following programs are eligible:

- Civil citation or similar pre-arrest diversion (s. 985.12, F.S.).
- Pre-arrest or post-arrest diversion programs (s. 985.125, F.S.).
- Neighborhood restorative justice programs (s. 985.155, F.S.).
- Community arbitration programs (s. 985.16, F.S.).
- Another program to which a referral is made by the state attorney (s. 985.15, F.S.).

The decision to refer a juvenile to a diversion program is at the discretion of either the law enforcement officer that confronted the juvenile at the time of the incident or the state attorney that has been referred the case. While participation in a diversion program may be restricted to misdemeanor offenses, there are some programs that enable a juvenile who has committed a felony to participate. In FY 2018-19, 4,965 juveniles were referred to post arrest diversion programs for felony offenses.[18]

After completing an eligible diversion program, a juvenile seeking to have his or her nonjudicial arrest record expunged must:

- Submit an application for diversion expunction to the FDLE.
- Submit, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that:
  - He or she has completed the diversion program;
  - The arrest was for a misdemeanor; and
  - He or she has not otherwise been charged by the state attorney with or have been found to have committed, any criminal offense or comparable ordinance violation.
- Have not, before the application for expunction, been charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.[19]

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[15] Section 943.0515(1)(b)2., F.S.
[16] Florida Department of Juvenile Justice, *Glossary*, available at http://www.djj.state.fl.us/youth-families/glossary (last accessed January 17, 2020).
[17] Center for Health & Justice at TASC, *A National Survey of Criminal Justice Diversion Programs and Initiatives*, pg. 6, (December 2013), available at http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf (last accessed January 17, 2020).
[18] Florida Department of Juvenile Justice, *Delinquency Profile 2018, Statewide Diversion – Felony Arrests*, (September 13, 2019), available at http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard (last visited January 17, 2020).
[19] Section 943.0582(3), F.S.

If the juvenile meets such criteria and submits the appropriate documentation, the FDLE must expunge the nonjudicial arrest record of the juvenile.[20]

A criminal history record that is expunged under this section is only available to criminal justice agencies for the purpose of determining eligibility for diversion programs, a criminal investigation, or making a prosecutorial decision. Records that are eligible for expunction under this section must be sealed.[21] A juvenile who successfully completes a diversion program for a first time misdemeanor offense may lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record, unless the inquiry is made by a criminal justice agency[22] for one of the purposes stated above.[23]

A juvenile who receives an expunction under this section is not prevented from petitioning for the expunction or sealing of a later criminal history record for human trafficking victim expunction,[24] court ordered expunction,[25] or court ordered sealing,[26] if the juvenile is otherwise eligible for relief under those sections.[27]

III. Effect of Proposed Changes:

This bill amends s. 943.0582, F.S., to permit juvenile diversion expunction for any offense, including *felony offenses*. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, this bill amends s. 985.126, F.S., to permit a juvenile who completes a diversion program for any offense, including a *felony or subsequent offense*, to lawfully deny or fail to acknowledge his or her participation in the program. This expands the current law, which only permits a juvenile who completes diversion for a *first-time misdemeanor offense* to lawfully deny or fail to acknowledge his or her participation in the program.

The effective date of the bill is January 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[20] Section 943.0582(3), F.S.
[21] Section 943.0582(2)(b), F.S.
[22] "Criminal justice agency" means: a court; the FDLE; the DJJ; the protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect; and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice. Section 942.045(11), F.S.
[23] Section 985.126(5), F.S.
[24] Section 943.0583, F.S.
[25] Section 943.0585, F.S.
[26] Section 943.059, F.S.
[27] Section 943.0582, 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:

None.

C. Government Sector Impact:

The FDLE may see an increase in applications for diversion expunction from juveniles who have completed diversion for a felony offense. The FDLE reports that there are currently 21,773 minors with 53,294 juvenile felony arrest charges with or without disposition that may qualify for juvenile diversion expunction. The FDLE estimates it needs $24,050 to make programmatic changes to its technology systems.[28] Therefore, this bill may have a negative indeterminate fiscal impact on the FDLE.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 943.0582 and 985.126.

[28] Florida Department of Law Enforcement, *2020 Agency Analysis of SB 700* (November 22, 2019), at 4. On file with Senate Committee on Criminal Justice.

IX. Additional Information:

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

CS/CS by Appropriations on February 20, 2020:
The committee substitute removes the reference to (Linked) SB 1292 or similar legislation, and changes the effective date of the bill to July 1, 2020.

CS by Criminal Justice on January 14, 2020:
The committee substitute ensures that this bill will take effect at the same time that linked bill SB 1292 takes effect.

B. Amendments:

None.

439690

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 44
and insert:
Section 3. 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 line 7
and insert:

439690

by the act; providing an effective date.

By the Committee on Criminal Justice; and Senators Perry, Pizzo, Braynon, Harrell, and Gruters

591-02252-20 2020700c1

A bill to be entitled

An act relating to juvenile diversion program expunction; amending s. 943.0582, F.S.; deleting a requirement that limits diversion program expunction to programs for misdemeanor offenses; amending s. 985.126, F.S.; conforming a provision to changes made by the act; providing a contingent effective date.

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

Section 1. Subsection (1) and paragraph (b) of subsection (3) of section 943.0582, Florida Statutes, are amended to read:

943.0582 Diversion program expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department shall adopt rules to provide for the expunction of a nonjudicial record of the arrest of a minor who has successfully completed a diversion program ~~for a misdemeanor offense~~.

(3) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a diversion program if that minor:

(b) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county's diversion program~~, that his or her participation in the program was based on an arrest for a misdemeanor,~~ and that he or she has not otherwise been charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.

591-02252-20 2020700c1

Section 2. Subsection (5) of section 985.126, Florida Statutes, is amended to read:

985.126 Diversion programs; data collection; denial of participation or expunged record.—

(5) A minor who successfully completes a diversion program ~~for a first-time misdemeanor offense~~ may lawfully deny or fail to acknowledge his or her participation in the program and an expunction of a nonjudicial arrest record under s. 943.0582, unless the inquiry is made by a criminal justice agency, as defined in s. 943.045, for a purpose described in s. 943.0582(2)(b)1.

Section 3. This act shall take effect on the same date that SB 1292 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

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: January 29, 2020

I respectfully request that **Senate Bill #700**, relating to Juvenile Diversion Program Expunction, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/20/2020
Meeting Date

SB 700
Bill Number (if applicable)

Topic Juvenile Diversion Program Expunction - 2020

Amendment Barcode (if applicable)

Name Candice K. Brower

Job Title Executive Council Member

Address 235 S. Main Street, Suite 205
Street

Phone 352-377-0567

Gainesville — *City* | Florida — *State* | 32601 — *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Public Interest Law Section of The Florida Bar

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)

02/20/2020
Meeting Date

SB 700
Bill Number (if applicable)

Topic Juvinile Diversion Program

Amendment Barcode (if applicable)

Name Candice K Brower

Job Title Regional Counsel, Region 1

Address 227 N. Bronough Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 352 681 0293

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of Criminal Conflict & Civil Regional Counsel, Region 1

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)

2/20/20
Meeting Date

SB 0700
Bill Number (if applicable)

Topic Juvenile Diversion Program

Amendment Barcode (if applicable)

Name Kristina Wiggins

Job Title Executive Director

Address 103 North Gadsden St
Street

Phone 850-488-6850

Tallahassee FL 32301
City *State* *Zip*

Email kwiggins@flpda.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender 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)

2/20/20
Meeting Date

SB 0700
Bill Number (if applicable)

Topic Juvenile Diversion Program

Amendment Barcode (if applicable)

Name Kristina Wiggins

Job Title Executive Director

Address 103 North Gadsden St
Street

Phone 850-488-6850

Tallahassee FL 32301
City *State* *Zip*

Email kwiggins@flpda.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender 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

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 712 (413536)
INTRODUCER:	Community Affairs Committee; and Senators Mayfield, Harrell, and Albritton
SUBJECT:	Water Quality Improvements
DATE:	February 4, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga/Rogers	Ryon	CA	**Fav/CS**
2.	Reagan	Betta	AEG	**Recommend: Fav/CS**
3.	Reagan	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 712 includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly referred to as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics. Note that rules that cost at least $1 million over the first five years of implementation require legislative ratification.[1] Therefore, several of these provisions may not be fully effectuated without additional legislation.

The DEP will incur indeterminate additional costs in developing multiple new regulatory programs, updating basin management action plans (BMAPs), promulgating rules, and developing, submitting, and reviewing new reports. The DEP can absorb these costs within existing resources. The implementation of the real-time water quality monitoring and wastewater grant programs will have a negative fiscal impact on the DEP, but these provisions are subject to appropriations. See Section V.

Regarding OSTDSs, the bill:

- Transfers the regulation of OSTDSs from the Department of Health (DOH) to the DEP.
- Directs the DEP to adopt rules to locate OSTDSs by July 1, 2022:

[1] Section 120.541(3), F.S.

  - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
  - Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and the Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within BMAPs if the DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.

Regarding wastewater, the bill:

- Creates a wastewater grant program, subject to appropriation, within the DEP that requires a 50 percent local match of funds. Eligible projects include:
  - Projects to upgrade OSTDSs.
  - Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
  - Projects to connect OSTDSs to central sewer facilities.
- Requires the DEP to submit an annual report to the Governor and the Legislature on the projects funded by the wastewater grant program.
- Provides incentives for wastewater projects that promote efficiency by coordinating wastewater infrastructure expansions with other infrastructure improvements.
- Gives priority in the state revolving loan fund for eligible wastewater projects that meet the additional requirements of the bill to prevent leakage, overflows, infiltration, and inflow.
- Requires the DEP to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.
- Authorizes the DEP to require public utilities seeking a wastewater discharge permit to file reports and other data regarding utility costs:
  - Such reports may include data related to expenditures on pollution mitigation and prevention, including the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration.
  - The DEP is required to adopt rules related to these requirements.
- Requires local governments to develop wastewater treatment plans within BMAPs if the DEP determines that domestic wastewater facilities contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.
- Adds to the DEP's penalty schedule a penalty of $4,000 for failure to survey an adequate portion of a wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. Substantial compliance with certain bill requirements is evidence in mitigation for penalty assessment.
- Increases the cap on the DEP's administrative penalties from $10,000 to $50,000.
- Doubles the wastewater administrative penalties.
- Prohibits facilities for sanitary sewage disposal from disposing of waste into the Indian River Lagoon and its tributaries without providing advanced waste treatment.

- Requires facilities for sanitary sewage disposal to provide for a power outage contingency plan for collection systems and pump stations.
- Requires facilities for sanitary sewage to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment.
  - The bill requires studies, plans, and reports related to this requirement (the action plan).
  - The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.
- Authorizes certain facilities for sanitary sewage to receive 10-year permits if they are meeting the goals in their action plan for inflow, infiltration, and leakage prevention.
- Makes the following changes relating to water pollution operation permits:
  - The permit must require the investigation or surveying of the wastewater collection system to determine pipe integrity.
  - The permit must require an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule, including any deviation from annual expenditures related to their action plan.
- Requires the DEP to submit an annual report to the Governor and the Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The DEP must include with this report certain utility-specific information for each utility that experienced an overflow.

Regarding stormwater, the bill:

- Requires the DEP and the Water Management Districts (WMDs), by January 1, 2021, to initiate rulemaking to update their stormwater rules.
- Requires the DEP, by January 1, 2021, to evaluate inspection data relating to entities that self-certify their stormwater permits and provide the Legislature with recommendations for improvements to the self-certification program.
- Directs the DEP and the Department of Economic Opportunity to include in their model stormwater management program ordinances that target nutrient reduction practices and use green infrastructure.

Regarding agriculture, the bill:

- Requires the Department of Agriculture and Consumer Services (DACS) to collect and provide to the DEP fertilization and nutrient records from each agriculture producer enrolled in best management practices.
- Requires the DACS to perform onsite inspections of each agricultural producer that enrolls in a best management practice every two years.
- Authorizes the DACS and institutions of higher education with agricultural research programs to develop research plans and legislative budget requests relating to the evaluation and improvement of agricultural best management practices and agricultural nutrient reduction projects.

Regarding biosolids, the bill:

- Requires the DEP to adopt rules for biosolids management.
- Exempts the biosolids rules from legislative ratification if they are adopted prior to the 2021 legislative session.

- Clarifies that local governments with biosolids ordinances may retain those ordinances until repealed.

The bill also creates a real-time water quality monitoring program, subject to appropriation, within the DEP.

The effective date of the bill is July 1, 2021.

II. Present Situation:

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.

Phosphorus and nitrogen are derived from natural and human-made sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.[2]

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.[3]

Blue-Green Algae Task Force

In January of 2019, Governor DeSantis issued the comprehensive Executive Order Number 19-12.[4] The order directed the Department of Environmental Protection (DEP) to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state.[5] The task force's responsibilities include identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued a consensus document on October 11, 2019.[6] To the extent that the task force has issued recommendations on topics addressed in this Present Situation, those recommendations are included in the relevant section.

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[2] U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, https://www.epa.gov/nutrientpollution/sources-and-solutions (last visited Dec. 2, 2019).
[3] EPA, *The Problem*, https://www.epa.gov/nutrientpollution/problem (last visited Dec. 2, 2019).
[4] State of Florida, 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.
[5] *Id.* at 2; DEP, *Blue-Green Algae Task Force*, https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force (last visited Dec. 2, 2019).
[6] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.[7] Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, the DEP is required to establish a TMDL for impaired waterbodies.[8] A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.[9] Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.[10]

Basin Management Action Plans and Best Management Practices

The DEP is the lead agency in coordinating the development and implementation of TMDLs.[11] Basin management action plans (BMAPs) are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

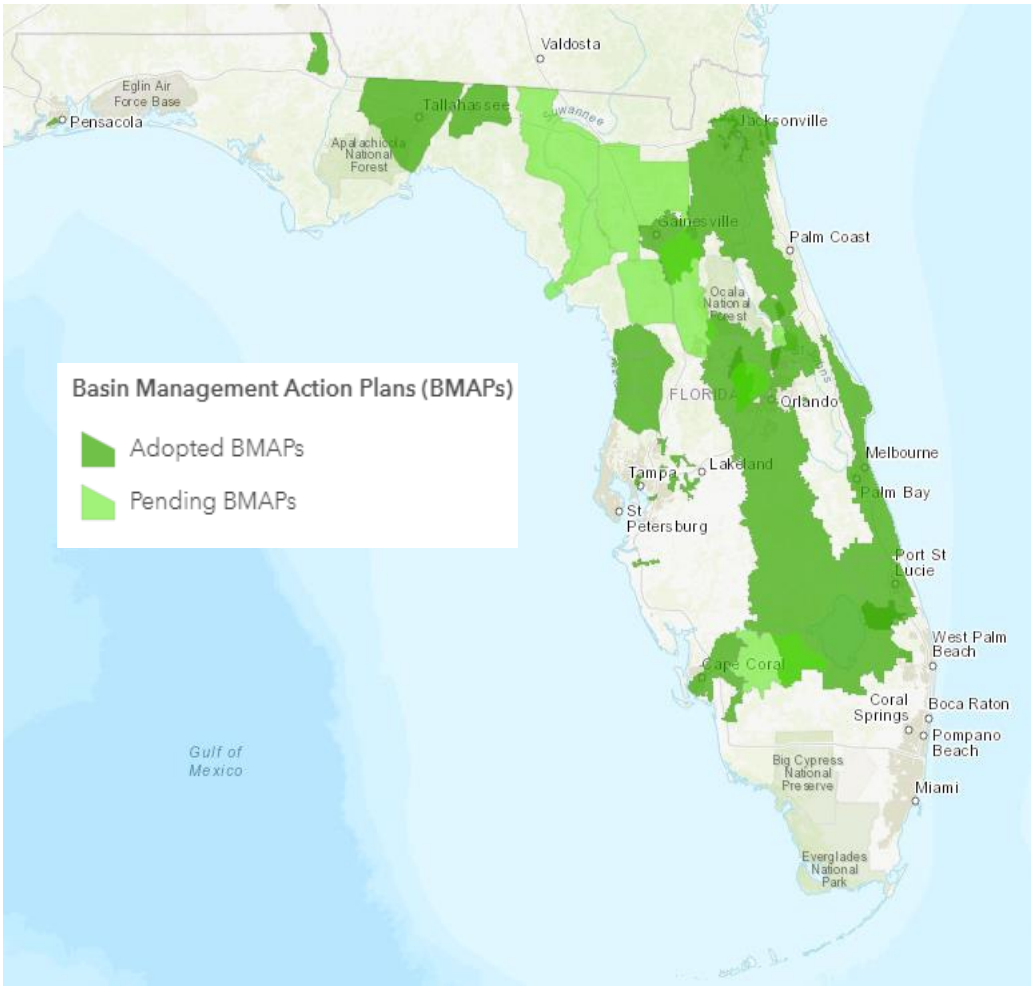
- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.[12]

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.[13] Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the public to

[7] DEP, *Total Maximum Daily Loads Program*, https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program (last visited Dec. 2, 2019).
[8] Section 403.067(1), F.S.
[9] Section 403.031(21), F.S.
[10] Fla. Admin. Code R. 62-620.200(37). "Point source" is defined as "any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged." Nonpoint sources of pollution are sources of pollution that are not point sources. Nonpoint sources can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.
[11] Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.
[12] Section 403.067(7), F.S.
[13] *Id*.

collectively determine and share water quality cleanup responsibilities collectively.[14] BMAPs are adopted by secretarial order.[15]

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years, and revisions to the BMAP must be made as appropriate.[16]



Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.[17] A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district (WMD) based on a failure to implement these

[14] DEP, *Basin Management Action Plans (BMAPs)*, https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps (last visited Dec. 4, 2019).
[15] Section 403.067(7)(a)5., F.S.
[16] Section 403.067(7)(a)6., F.S.
[17] Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

requirements.[18] BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and to help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.[19]

Currently, BMAPs are adopted or pending for a significant portion of the state and will continue to be developed as necessary to address water quality impairments. The graphic above shows the state's adopted and pending BMAPs.[20]

The Blue-Green Algae Task Force made the following recommendations for BMAPs:
- Include regional storage and treatment infrastructure in South Florida watersheds.
- Consider land use changes, legacy nutrients, and the impact of the BMAP on downstream waterbodies.
- Develop a more targeted approach to project selection.
- Evaluate project effectiveness through monitoring.[21]

Agricultural BMPs

Agricultural best management practices (BMPs) are practical measures that agricultural producers undertake to reduce the impacts of fertilizer and water use and otherwise manage the landscape to further protect water resources. BMPs are developed using the best available science with economic and technical consideration and, in certain circumstances, can maintain or enhance agricultural productivity.[22] BMPs are implemented by the Department of Agriculture and Consumer Services (DACS). Since the BMP program was implemented in 1999,[23] the DACS has adopted nine BMP manuals and is currently developing two more that cover nearly all major agricultural commodities in Florida. According to the annual report on BMPs prepared by the DACS, approximately 54 percent of agricultural acreage is enrolled in the DACS BMP program statewide.[24] Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs[25] and those who enroll in the BMP program become eligible for technical assistance and cost-share funding for BMP implementation. To enroll in the BMP program, producers must meet with the Office of Agricultural Water Policy (OAWP) to determine the BMPs that are applicable to their operation

[18] Section 403.067(7)(b)2.h., F.S.
[19] DEP, *NPDES Stormwater Program,* https://floridadep.gov/Water/Stormwater (last visited Dec. 2, 2019).
[20] DEP, *Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map*, https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans (last visited Dec. 5, 2019).
[21] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 2-4 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[22] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).
[23] The program was voluntary from 1999-2005. In 2005 the Florida Legislature modified the law requiring agricultural producers to adopt BMPs or conduct water quality monitoring.
[24] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 2, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).
[25] Section 403.067(7), F.S.

and submit a Notice of Intent to Implement the BMPs, along with the BMP checklist from the applicable BMP manual.[26] Within a BMAP, management strategies, including BMPs and water quality monitoring, are enforceable.[27]The University of Florida's Institute of Food and Agricultural Sciences (IFAS) is heavily involved in the adoption and implementation of BMPs. The IFAS provides expertise to both the DACS and agriculture producers, and has extension offices throughout Florida. The IFAS puts on summits and workshops on BMPs,[28] conducts research to issue recommendations for improving BMPs,[29] and issues training certificates for BMPs that require licenses such as Green Industry BMPs.[30]

For agriculture and BMPs, the Blue-Green Algae Task Force recommended:
- Increasing BMP enrollment.
- Improving records and additional data collection.
- Accelerating updates to BMP manuals.[31]

BMAPs for Outstanding Florida Springs

In 2016, the Legislature passed the Florida Springs and Aquifer Protection Act, which identified 30 "Outstanding Florida Springs" (OFS) that have additional statutory protections and requirements.[32] Key aspects of the Springs and Aquifer Protection Act relating to water quality include:
- The designation of a priority focus area for each OFS. A priority focus area of an OFS means the area or areas of a basin where the Florida Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the DEP in consultation with the appropriate WMDs, and delineated in a BMAP;[33]
- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan[34] if it has been determined that OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL;
- A 20-year timeline for implementation of the TMDL, including 5-, 10-, and 15-year targets;[35] and

[26] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).
[27] Section 403.067(7)(d), F.S.
[28] UF/IFAS, *BMP Resource*, *available at* https://bmp.ifas.ufl.edu/ (last visited Dec. 5, 2019).
[29] UF/IFAS Everglades Research & Education Center, *Best Management Practices & Water Resources*, *available at* https://erec.ifas.ufl.edu/featured-3-menus/research-/best-management-practices--water-resources/ (last visited Dec. 5, 2019).
[30] UF/IFAS Florida-Friendly Landscaping, *GI-BMP Training Program Overview*, *available at* https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm (last visited Dec. 5, 2019).
[31] *Id*.
[32] Chapter 2016-1, Laws of Fla.; *see* s. 373.802, F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.
[33] Section 373.802(5), F.S.
[34] Commonly called a "septic remediation plan."
[35] Section 373.807, F.S.

- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.[36]

The DEP is the lead agency in coordinating the preparation and adoption of the OSTDS remediation plan. The OSTDS remediation plan must include options for repair, upgrade, replacement, drainfield modification, the addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for a sewage system or group of systems.[37] The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.[38]

In June 2018, the DEP adopted 13 BMAPs, addressing all 24 nitrogen-impaired OFS.[39] Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAPs.[40] These alleged deficiencies include lack of specificity in the required list of projects and programs identified to implement a TMDL, lack of detail in cost estimates, incomplete or unclear strategies for nutrient reduction, and failure to account for population growth and agricultural activity.

Wastewater Treatment Facilities

The proper treatment and disposal or reuse of domestic wastewater is an important part of protecting Florida's water resources. The majority of Florida's domestic wastewater is controlled and treated by centralized treatment facilities regulated by the DEP. Florida has approximately 2,000 permitted domestic wastewater treatment facilities.[41]

Chapter 403, F.S., requires that any facility or activity which discharges waste into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit from the DEP.[42] Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by the DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.[43]

Under section 402 of the Clean Water Act, any discharge of a pollutant from a point source to surface waters (i.e., the navigable waters of the United States or beyond) must obtain a National

[36] Section 373.811, F.S.
[37] Section 373.807(3), F.S.
[38] *Id*.
[39] DEP, *Springs*, https://floridadep.gov/springs (last visited Nov. 26, 2019).
[40] *Our Santa Fe River, Inc., et. al. v. DEP*, No. 18-1601, DEP No. 18-2013; *Sierra Club v. DEP*, No. 17-1175, DEP No. 18-0204; *Friends of Wekiva River, Inc. v. DEP*, No. 18-1065, DEP No. 18-0217; *Thomas Greenhalgh v. DEP*, No. 17-1165, DEP No. 18-0204; *Paul Still v. DEP*, No. 18-1061; *Save the Manatee Club, Inc. v. DEP*, No. 17-1167, DEP No. 18-0206; *Silver Springs Alliance, Inc. and Rainbow River Conservation, Inc. v. DEP*, No. 18-1060, DEP No. 18-0211.
[41] DEP, *General Facts and Statistics About Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Dec. 2, 2019).
[42] Section 403.087, F.S.
[43] DEP, *Wastewater Permitting*, https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting (last visited Dec. 2, 2019).

Pollution Discharge Elimination System (NPDES) permit.[44] NPDES permit requirements for most wastewater facilities or activities (domestic or industrial) that discharge to surface waters are incorporated into a state-issued permit, thus giving the permittee one set of permitting requirements rather than one state and one federal permit.[45] The DEP issues operation permits for a period of five years for facilities regulated under the NPDES program and up to 10 years for other domestic wastewater treatment facilities meeting certain statutory requirements.[46]

In its 2016 Report Card for Florida's Infrastructure, the American Society of Civil Engineers reported that the state's wastewater system is increasing in age and the condition of installed treatment and conveyance systems is declining.[47] As existing infrastructure ages, Florida utilities are placing greater emphasis on asset management systems to maintain service to customers. Population growth, aging infrastructure, and sensitive ecological environments are increasing the need to invest in Florida's wastewater infrastructure.[48]

Advanced Waste Treatment

Under Florida law, facilities for sanitary sewage disposal are required to provide for advanced waste treatment, as deemed necessary by the DEP.[49] The standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.[50] The standard also requires high-level disinfection.[51]

Nutrient or Contaminant	Maximum Concentration Annually
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus	1 mg/L

Facilities for sanitary sewage disposal are prohibited from disposing of waste into certain waters in the state without providing advanced waste treatment approved by the DEP.[52] Specifically, Tampa Bay is viewed as a success story for this type of prohibition.

> [Tampa Bay is] one of the few estuaries in the U.S. that has shown evidence of improving environmental conditions. These water-quality

[44] 33 U.S.C. s. 1342.
[45] Sections 403.061 and 403.087, F.S.
[46] Section 403.087(3), F.S.
[47] American Society of Civil Engineers, *Report Card for Florida's Infrastructure* (2016), *available at* https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf.
[48] *Id*.
[49] Section 403.086(2), F.S.
[50] Section 403.086(4), F.S.
[51] Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).
[52] Section 403.086(1)(c), F.S. Facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment approved by DEP. This prohibition does not apply to facilities permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

> improvements have been due, in large part, to upgrades in wastewater-treatment practices at municipal wastewater-treatment plants in the region. Since 1980, all wastewater-treatment plants that discharge to the bay or its tributaries have been required by state legislation to meet advanced wastewater-treatment standards, a step that has reduced the annual nutrient loads from these sources by about 90 percent.[53]

Sanitary Sewer Overflows, Leakages, and Inflow and Infiltration

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause a sanitary sewer overflow (SSO). Any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system is a SSO.[54] A SSO may subject the owner or operator of a facility to civil penalties of not more than $10,000 for each offense, a criminal conviction or fines, and additional administrative penalties.[55] Each day during the period in which a violation occurs constitutes a separate offense.[56] However, administrative penalties are capped at $10,000.[57]

A key concern with SSOs entering rivers, lakes, or streams is their negative effect on water quality. In addition, because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access, food that has been contaminated, inhalation, and skin absorption. The Department of Health (DOH) issues health advisories when bacteria levels present a risk to human health and may post warning signs when bacteria affect public beaches or other areas where there is a risk of human exposure.[58]

Reduction of SSOs can be achieved through:

- Cleaning and maintaining the sewer system;
- Reducing inflow and infiltration through rehabilitation and repairing broken or leaking lines;
- Enlarging or upgrading sewer, pump station, or sewage treatment plant capacity and/or reliability; and
- Constructing wet weather storage and treatment facilities to treat excess flows.[59]

Inflow and Infiltration (I&I) occurs when groundwater and/or rainwater enters the sanitary sewer system and ends up at the wastewater treatment facility, necessitating its treatment as if it were

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[53] U.S. Department of the Interior and U.S. Geological Survey, *Integrating Science and Resource Management in Tampa Bay, Florida*, 110 (2011), *available at* https://pubs.usgs.gov/circ/1348/pdf/Chapter%205_105-156.pdf (internal citations omitted).
[54] DEP, *Sanitary Sewer Overflows (SSOs), available at* https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf (last visited Dec. 4, 2019).
[55] Sections 403.121 and 403.141, F.S.
[56] *Id*.
[57] Section 403.121(2)(b),(8), and (9), F.S.
[58] DEP, *SSOs, available at* https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf.
[59] *Id*.

wastewater.[60] I&I can be caused by groundwater infiltrating the sewer system through faulty pipes or infrastructure, or any inflows of rainwater or non-wastewater into the sewer system.

I&I is a major cause of SSOs in Florida.[61] When domestic wastewater facilities are evaluated for permit renewal, collection systems are not evaluated for issues such as excessive infiltration/inflow unless problems result at the treatment plant.[62] Another major cause of SSOs is the loss of electricity to the infrastructure for the collection and transmission of wastewater, such as pump stations, especially during storms.[63] Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.[64] All other pump stations must have emergency pumping capability through one of three specified arrangements.[65] These requirements for emergency pumping capacity only apply to domestic wastewater collection/transmission facilities existing after November 6, 2003, unless facilities existing prior to that date are modified.[66]

The Blue-Green Algae Task Force made the following recommendations relating to SSOs:

- Emergency back-up capabilities should be required for all lift stations constructed prior to 2003.
- The DEP and wastewater facilities should take a more proactive approach to infiltration and inflow issues.[67]

Wastewater Asset Management

Asset management is the practice of managing infrastructure capital assets to minimize the total cost of owning and operating these assets while delivering the desired service levels.[68] Many utilities use asset management to pursue and achieve sustainable infrastructure. A high-performing asset management program includes detailed asset inventories, operation and maintenance tasks, and long-range financial planning.[69]

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[60] City of St. Augustine, *Inflow & Infiltration Elimination Program*, https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program (last visited Dec. 6, 2019).
[61] *See generally* RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), *available at* https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.
[62] Fla. Admin. Code R. 62-600.735; *see* Fla. Admin. Code R. 62-600.200. "Collection/transmission systems" are defined as "sewers, pipelines, conduits, pumping stations, force mains, and all other facilities used for collection and transmission of wastewater from individual service connections to facilities intended for the purpose of providing treatment prior to release to the environment."
[63] *See generally* RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), *available at* https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.
[64] Fla. Admin. Code R. 62-604.400.
[65] *Id.*
[66] Fla. Admin. Code R. 62-604.100.
[67] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 7 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[68] EPA, *Sustainable Water Infrastructure - Asset Management for Water and Wastewater Utilities*, https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities (last visited Dec 9, 2019).
[69] *Id.*

Each utility is responsible for making sure that its system stays in good working order, regardless of the age of its components or the availability of additional funds.[70] Asset management programs with good data can be the most efficient method of meeting this challenge. Some key steps for asset management are making an inventory of critical assets, evaluating the condition and performance of such assets, and developing plans to maintain, repair, and replace assets and to fund these activities.[71] The United States Environmental Protection Agency (EPA) provides guidance and reference manuals for utilities to aid in developing asset management plans.[72]

Many states, including Florida, provide financial incentives for the development and implementation of an asset management plan when requesting funding under a State Revolving Fund or other state funding mechanism.[73] Florida's incentives include priority scoring,[74] reduction of interest rates,[75] principal forgiveness for financially disadvantaged small communities,[76] and eligibility for small community wastewater facilities grants.[77]

In 2016, the Legislature authorized the Public Service Commission (PSC) to allow a utility to create a utility reserve fund for repair and replacement of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The utility reserve fund would be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit.

The PSC adopted rules governing the implementation, management, and use of the fund, including expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for the PSC authorization before fund disbursements.[78] The PSC requires an applicant to provide a capital improvement plan or an asset management plan in seeking authorization to create a utility reserve fund.[79]

The Clean Water State Revolving Fund Program

Florida's Clean Water State Revolving Fund (CWSRF) is a federal-state partnership that provides communities a permanent, independent source of low-cost financing for a wide-range of water quality infrastructure projects.[80] The CWSRF is funded through money received from

[70] *Id*.
[71] *Id*.
[72] EPA, *Asset Management: A Best Practices Guide* (2008), *available at* https://nepis.epa.gov/Exe/ZyPDF.cgi/P1000LP0.PDF?Dockey=P1000LP0.PDF; EPA, *Reference Guide for Asset Management Tools/Asset Management Plan Components and Implementation Tools for Small and Medium Sized Drinking Water and Wastewater Systems* (May 2014), *available at* https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf.
[73] EPA, *State Asset Management Initiatives* (Aug. 2012), *available at* https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf.
[74] Fla. Admin. Code R. 62-503.300(e).
[75] Fla. Admin. Code R. 62-503.300(5)(b)1. and 62-503.700(7).
[76] Fla. Admin. Code R. 62-503.500(4).
[77] Fla. Admin. Code R. 62-505.300(d) and 62-505.350(5)(c).
[78] Fla. Admin. Code R. 25-30.444.
[79] Fla. Admin. Code R. 25-30.444(2)(e) and (m).
[80] 33 USC s. 1383; EPA, *CWSRF*, https://www.epa.gov/cwsrf (last visited Jan. 23, 2020); EPA, *Learn about the CWSRF*, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Jan. 23, 2020).

federal grants as well as state contributions, which then "revolve" through the repayment of previous loans and interest earned. While these programs offer loans, grant-like funding is also available for qualified small, disadvantaged communities, which reduces the amount owed on loans by the percentage for which the community qualifies.

The CWSRF provides low-interest loans to local governments to plan, design, and build or upgrade wastewater, stormwater, and nonpoint source pollution prevention projects. Certain agricultural best management practices may also qualify for funding. Very low interest rate loans, grants, and other discounted assistance for small communities are available. Interest rates on loans are below market rates and vary based on the economic means of the community. Generally, local governments and special districts are eligible loan sponsors.[81] The EPA classifies eleven types of projects that are eligible to receive CWSRF assistance. They include projects for:

- A publicly owned treatment works;
- A public, private, or nonprofit entity to implement a state nonpoint source pollution management program;
- A public, private, or nonprofit entity to develop and implement a conservation and management plan;
- A public, private, or nonprofit entity to construct, repair, or replace decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;
- A public, private, or nonprofit entity to manage, reduce, treat, or recapture stormwater or subsurface drainage water;
- A public entity to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse;
- A public, private, or nonprofit entity to develop and implement watershed projects;
- A public entity to reduce the energy consumption needs for publicly owned treatment works;
- A public, private, or nonprofit entity for projects for reusing or recycling wastewater, stormwater, or subsurface drainage water;
- A public, private, or nonprofit entity to increase the security of publicly owned treatment works; and
- Any qualified nonprofit entity, to provide technical assistance to owners and operators of small and medium sized publicly owned treatment works to plan, develop, and obtain financing for the CWSRF eligible projects and to assist each treatment works in achieving compliance with the Clean Water Act.[82]

Of these eligible projects, the DEP is required to give priority to projects that:

- Eliminate public health hazards;
- Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(9), F.S., regarding domestic wastewater ocean outfalls;
- Assist in the implementation of total maximum daily loads adopted under s. 403.067, F.S.;

[81] DEP, *State Revolving Fund*, https://floridadep.gov/wra/srf (last visited Feb. 11, 2019).
[82] EPA, *Learn about the CWSRF*, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Jan. 23, 2020).

- Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;
- Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;
- Promote reclaimed water reuse;
- Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or
- Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.[83]

Small Community Sewer Construction

The Small Community Sewer Construction Assistance Act is a grant program established as part of the CWSRF program that requires the DEP to award grants to assist financially disadvantaged small communities with their needs for adequate domestic wastewater facilities.[84] Under the program, a financially disadvantaged small community is defined as a county, municipality, or special district[85] with a total population of 10,000 or less, and a per capita income less than the state average per capita income.[86] In 2016, the Legislature included counties and special districts as eligible entities for grants under the program if they otherwise met the definition of a financially disadvantaged small community.[87]

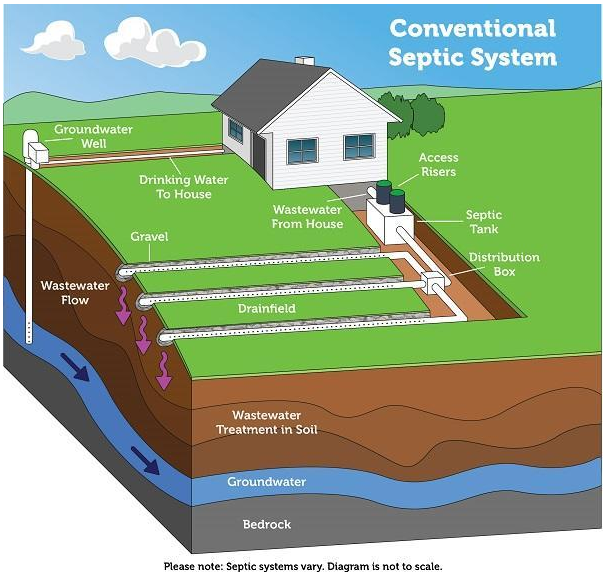
In accordance with rules adopted by the Environmental Regulation Commission, the DEP may provide grants, for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.[88] The rules of the commission must also:

- Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable;
- Require appropriate user charges, connection fees, and other charges to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant;
- Require grant applications to be submitted on appropriate forms with appropriate supporting documentation and require records to be maintained;
- Establish a system to determine eligibility of grant applications;
- Establish a system to determine the relative priority of grant applications, which must consider public health protection and water pollution abatement;
- Establish requirements for competitive procurement of engineering and construction services, materials, and equipment; and
- Provide for termination of grants when program requirements are not met.[89]

[83] Section 403.1835(7), F.S.
[84] Sections 403.1835(3)(d) and 403.1838, F.S.
[85] Section 189.012(6), F.S., defines special district; s. 189.012(2) and (3), F.S., define dependent special district and independent special district, respectively.
[86] Section 403.1838(2), F.S.
[87] Chapter 2016-55, Laws of Fla.
[88] Section 403.1838(3)(a), F.S.
[89] Section 403.1838(3)(b), F.S.; Fla. Admin. Code R. Ch. 62-505.

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as "septic systems," generally consist of two basic parts: the septic tank and the drainfield.[90] Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.[91]



The DOH administers OSTDS programs, develops statewide rules, and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.[92] The DOH regulations focus on construction standards and setback distances. The regulations are primarily designed to protect the public from waterborne illnesses.[93] The DOH also conducts research to evaluate performance, environmental health, and public health effects of OSTDSs. Innovative OSTDS products and technologies must be approved by the DOH.[94]

The DOH and the DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.[95] The DEP has jurisdiction

[90] DOH, *Septic System Information and Care*, http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html (last visited Dec. 2, 2019); EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems (last visited Dec. 2, 2019) (showing the graphic provided in the analysis).
[91] *Id.*
[92] Section 381.0065(3), F.S.
[93] DOH, *Overview of Onsite Sewage Treatment and Disposal Systems*, 5 (Aug. 1, 2019), http://floridadep.gov/file/19018/download?token=6r94Bi2B.
[94] Section 381.0065(3), F.S.
[95] *Interagency Agreement Between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems* (Sept. 30, 2015), *available at* https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf.

over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by the DEP (unless the DOH grants a variance).[96] In all other circumstances, the DOH regulates OSTDSs.

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.[97] In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.[98] For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.[99] The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[100]

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.[101] This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.[102]

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems).[103] The DOH publishes on its website approved products and resources on advanced systems.[104] Determining which advanced system is the best option can depend on site-specific conditions.

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.[105] Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.[106]

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[96] *Id.* at 6-13; s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, https://floridadep.gov/water/domestic-wastewater/content/septic-systems (last visited Dec. 2, 2019).
[97] DOH, *Onsite Sewage*, http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html (last visited Dec. 2, 2019).
[98] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/_documents/rrac/2008-11-06.pdf. The report begins on page 56 of the PDF.
[99] *Id*.
[100] *Id*.
[101] DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study*, *Final Report 2008-2015*, 21 (Dec. 2015), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf; *see* Fla. Admin. Code R. 64E-6.006(2).
[102] University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), *available at* http://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf.
[103] DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (2019), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf.
[104] DOH, *Onsite Sewage Programs, Product Listings and Approval Requirements*, http://www.floridahealth.gov/environmental-health/onsite-sewage/products/index.html (last visited Dec. 2, 2019).
[105] Section 381.00655, F.S.
[106] *Id*.

The Blue-Green Algae Task Force made the following recommendations relating to OSTDSs:

- The DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health.
- More post-permitting septic tank inspections should take place.
- Protections for vulnerable areas in the state should be expanded.
- Additional funding to accelerate septic to sewer conversions.[107]

The DOH Technical Review and Advisory Panel

The DOH has a technical review and advisory panel to review agency rules and provide assistance to the DOH with rule adoption.[108] It is comprised of, at a minimum:

- A soil scientist;
- A professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in OSTDSs;
- Two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems;
- A representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state;
- A representative from the real estate industry who is recommended by the Florida Association of Realtors;
- A consumer representative with a science background;
- Two representatives of the septic tank industry recommended by the Florida Onsite Wastewater Association, including one who is a manufacturer of onsite sewage treatment and disposal systems;
- A representative from local government who is knowledgeable about domestic wastewater treatment and who is recommended by the Florida Association of Counties and the Florida League of Cities; and
- A representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department.[109]

Members are to be appointed for a term of two years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise.[110]

[107] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[108] Section 381.0068, F.S.
[109] *Id*.
[110] *Id*.

Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.[111] When stormwater falls on pavement, buildings, and other impermeable surfaces, the runoff flows quickly and can pick up sediment, nutrients (such as nitrogen and phosphorous), chemicals, and other pollutants.[112] Stormwater pollution is a major source of water pollution in Florida.[113]

There are two main regulatory programs to address water quality from stormwater: the federal program that regulates discharges of pollutants into waters of the United States[114] and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.[115] The federal NPDES Stormwater Program regulates the following types of stormwater pollution:[116]

- Certain municipal storm sewer systems;
- Runoff from certain construction activities; and
- Runoff from industrial activities.[117]

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.[118] ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.[119] The statewide ERP Program is implemented by the DEP, the WMDs, and certain local governments. The ERP Applicant Handbook, incorporated by reference into the DEP rules, provides guidance on the DEP's ERP Program, including stormwater topics such as the design of stormwater management systems.[120]

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[111] DEP and Water Management Districts, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), *available at* https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Appliicant_Hanbook_I_-_Combined.pd_0.pdf.

[112] DEP, *Stormwater Management*, 1 (2016), *available at* https://floridadep.gov/sites/default/files/stormwater-management_0.pdf. When rain falls on fields, forests, and other areas with naturally permeable surfaces the water not absorbed by plants filters through the soil and replenishes Florida's groundwater supply.

[113] DEP, *Stormwater Support*, https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support (last visited Dec. 2, 2019); DEP, *Nonpoint Source Program Update*, 10 (2015), *available at* https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf.

[114] National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.

[115] Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

[116] A point source is discernible, confined and discrete conveyance, such as a pipe, ditch, channel, tunnel, conduit, discrete fissure, or container. *See* The Clean Water Act, 33 U.S.C. s. 1362(14) and 40 C.F.R. 122.2; Stormwater can be either a pointsource or a nonpoint source of pollution. EPA, *Monitoring and Evaluating Nonpoint Source Watershed Projects*, 1-1, *available at* https://www.epa.gov/sites/production/files/2016-02/documents/chapter_1_draft_aug_2014.pdf; DEP, *Nonpoint Source Program Update*, 9 (2015), *available at* https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf.

[117] *See generally* EPA, *NPDES Stormwater Program*, https://www.epa.gov/npdes/npdes-stormwater-program (last visited Dec. 2, 2019).

[118] DEP, *DEP 101: Environmental Resource Permitting*, https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting (last visited Dec 2, 2019).

[119] South Florida Water Management District, *Environmental Resource Permits*, https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits (last visited Dec. 2, 2019).

[120] Fla. Admin. Code R. 62-330.010(4); DEP and WMDs, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), *available at* https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Appliicant_Hanbook_I_-_Combined.pd_0.pdf; , *Environmental Resource Permit Applicant's Handbook Volume II, available at* https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Dec. 2, 2019).

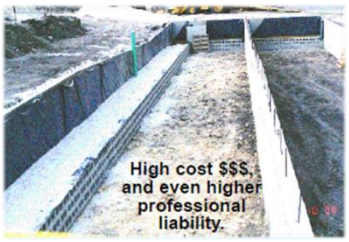
The DEP and the WMDs are authorized to require permits and impose reasonable conditions:

- To ensure that construction or alteration of stormwater management systems and related structures are consistent with applicable law and not harmful to water resources;[121] and
- For the maintenance or operation of such structures.[122]

The DEP's stormwater rules are technology-based effluent limitations rather than water quality-based effluent limitations.[123] This means that stormwater rules rely on design criteria for BMPs to achieve a performance standard for pollution reduction, rather than specifying the amount of a specific pollutant that may be discharged to a waterbody and still ensure that the waterbody attains water quality standards.[124] The rules contain minimum stormwater treatment performance standards, which require design and performance criteria for new stormwater management systems to achieve at least 80 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards.[125] The standard is 95 percent reduction when applied to Outstanding Florida Waters. In 2007, an evaluation performed for the DEP generally concluded that Florida's stormwater design criteria failed to consistently meet either the 80 percent or 95 percent target goals in the DEP's rules.[126] The images shown here depict six major types of surface water management systems:[127]

[121] Section 373.413, F.S.; *see* s. 403.814(12), F.S.
[122] Section 373.416, F.S.
[123] DEP, *ERP Stormwater*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Nov. 8, 2019).
[124] See generally, EPA, National Pollutant Discharge Elimination System (NPDES), www.epa.gov/npdes/npdes-permit-limits (last visited Dec. 2, 2019).
[125] Fla. Admin. Code R. 62-40.432(2).
[126] Environmental Research & Design, Inc., *Evaluation of Current Stormwater Design Criteria Within the State of Florida*, 6-1 (2007), *available at* https://www.sfwmd.gov/sites/default/files/documents/sw%20treatment%20report-final71907.pdf. The report makes an exception for the St. John's River Water Management District's standards for on-line dry retention.
[127] Presentation to the Blue-Green Algae Task Force by Benjamin Melnik, Deputy Director of the Division of Water Resource Management, *Stormwater*, 12 (September 24, 2019) (on file with Committee on Environment and Natural Resources).

"Filtered" Ponds



Underground Vaults

"Dry" Retention Ponds

"Wet" Detention Ponds

Underground Exfiltration Trenches

Pervious Pavement

The DEP and the WMDs must require applicants to provide reasonable assurance that state water quality standards will not be violated.[128] If a stormwater management system is designed in accordance with the stormwater treatment requirements and criteria adopted by the DEP or the WMDs, then the system design is presumed not to cause or contribute to violations of applicable state water quality standards.[129] If a stormwater management system is constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption, then the stormwater discharged from the system is presumed not to cause or contribute to violations of applicable state water quality standards.[130] If an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the DEP or a WMD must consider mitigation measures that cause a net improvement of the water quality in the water body that does not meet the standards.[131]

[128] Section 373.414(1), F.S.; *see* s. 373.403(11), F.S.; *see* Fla. Admin. Code Ch. 62-4, 62-302, 62-520, and 62-550.
[129] Section 373.4131(3)(b), F.S. Fla. Admin. Code R. 62-40.432(2); *see also* DEP, *ERP Stormwater*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Dec. 2, 2019) (stating that a key component of the stormwater rule is a "rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will not cause harm to water resources").
[130] Section 373.4131(3)(c), F.S.
[131] Section 373.414(1)(b)3., F.S.

2010 Stormwater Rulemaking

From 2008 to 2010, the DEP and the WMDs worked together on developing a statewide unified stormwater rule to protect Florida's surface waters from the effects of excessive nutrients in stormwater runoff.[132] A technical advisory committee was established. In 2010, the DEP announced a series of workshops to present for public comment the statewide stormwater quality draft rule Chapter 62-347 of the Florida Administrative Code and an Applicant's Handbook.[133] The notice stated the goal of the rule was to "increase the level of nutrient treatment in stormwater discharges and provide statewide consistency by establishing revised stormwater quality treatment performance standards and best management practices design criteria."[134]

These rulemaking efforts produced a draft document called the "Environmental Resource Permit Stormwater Quality Applicant's Handbook: Design Requirements for Stormwater Treatment in Florida."[135] The 2010 draft handbook's stormwater quality permitting requirements:

- Provided for different stormwater treatment performance standards based on various classifications of water quality.[136]
- Included instructions for calculating a project's required nutrient load reduction based on comparing the predevelopment and post-development loadings.[137]
- Provided the required criteria for stormwater BMPs.
- Listed fifteen different types of stormwater treatment systems, including low impact design, pervious pavements, and stormwater harvesting.[138]

The new rule and revised handbook were expected to be adopted in 2011.[139] However, no such rules or revised handbook were ever adopted. While the draft Stormwater Quality Applicant's Handbook never went into effect, it can provide context for understanding what new rules on these topics may look like.

The Blue-Green Algae Task Force recommended that the DEP revise and update stormwater design criteria and implement an effective inspection and monitoring program.[140]

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[132] South Florida Water Management District, *Quick Facts on the Statewide Unified Stormwater Rule*, *available at* https://www.sfwmd.gov/sites/default/files/documents/spl_stormwater_rule.pdf.
[133] Florida Administrative Register, Notices of Meetings, Workshops, and Public Hearings, *Notice of Rescheduling*, pg. 1885 (Apr. 23, 2010), *available at* https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2010/3616/3616doc.pdf.
[134] *Id.*
[135] DEP and Water Management Districts, *March 2010 Draft, Environmental Resource Permit Stormwater Quality Applicant's Handbook, Design Requirements for Stormwater Treatment Systems in Florida* (2010), *available at* https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content2/roadway/drainage/files/stormwaterqualityapphb-draft.pdf?sfvrsn=579bf184_0.
[136] *Id.* at 6-7.
[137] *Id.* at 8-11.
[138] *Id.* at 3.
[139] Nicole C. Kibert, *Status of Low Impact Development in Florida and Legal Considerations for Operation and Maintenance of LID Systems*, FLORIDA BAR JOURNAL Vol. 85, No. 1 (2011), https://www.floridabar.org/the-florida-bar-journal/status-of-low-impact-development-in-florida-and-legal-considerations-for-operation-and-maintenance-of-lid-systems/ (last visited Nov. 14, 2019).
[140] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

Water Quality Monitoring

One of the DEP's goals is to determine the quality of the state's surface and ground water resources. This goal is primarily accomplished through several water quality monitoring strategies that are administered through the Water Quality Assessment Program. Responsibilities of the program include: monitoring and assessing how water quality is changing over time; the overall water quality and impairment status of the state's water resources; and the effectiveness of water resource management, protection, and restoration programs.[141]

Within the Water Quality Assessment Program, the DEP administers the Watershed Monitoring Program. This program is responsible for collecting reliable data through water samples from rivers, streams, lakes, canals, and wells around the state.[142] This information is used by the DEP to determine which waters are impaired and what restoration efforts are needed.

The Blue-Green Algae Task Force recommended that science-based decision making and monitoring programs be enhanced, including the development of an expanded and more comprehensive statewide water quality monitoring strategy. Monitoring programs should focus on informing restoration project selection, implementation, and evaluation.[143]

Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary[144] that runs along 156 miles of Florida's east coast and borders Volusia, Brevard, Indian River, St. Lucie, and Martin counties.[145] The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.[146] Four BMAPs have been adopted for the IRL region.[147]

The IRL is one of the most biologically diverse estuaries in North America and is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.[148] The estimated economic value received from the IRL in 2014 was

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[141] DEP, *Water Quality Assessment Program*, https://floridadep.gov/dear/water-quality-assessment (last visited Dec. 2, 2019).
[142] DEP, *Watershed Monitoring*, https://floridadep.gov/dear/watershed-monitoring-section (last visited Dec. 2, 2019).
[143] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[144] An estuary is a partially enclosed, coastal waterbody where freshwater from rivers and streams mixes with saltwater from the ocean. Estuaries are among the most productive ecosystems on earth, home to unique plant and animal communities that have adapted to brackish water: freshwater mixed with saltwater. U.S. EPA, *What Is An Estuary?*, https://www.epa.gov/nep/basic-information-about-estuaries (last visited Dec. 2, 2019); NOAA, *What Is An Estuary?*, https://oceanservice.noaa.gov/facts/estuary.html (last visited Dec. 2, 2019).
[145] IRL National Estuary Program, *About the Indian River Lagoon*, http://www.irlcouncil.com/ (last visited Dec. 2, 2019).
[146] *Id*.
[147] East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, x (Aug. 26, 2016), *available at* http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf; DEP, *Basin Management Action Plans (BMAPs)*, https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps (last visited Dec. 2, 2019).
[148] IRL National Estuary Program, *About the Indian River Lagoon*, http://www.irlcouncil.com/ (last visited Dec. 2, 2019).

approximately $7.6 billion.[149] Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.[150]

The IRL ecosystem has been harmed by human activities in the region. Stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, canal discharges, septic systems, animal waste, and fertilizer applications have led to harmful levels of nutrients and sediments entering the lagoon.[151] These pollutants create cloudy conditions, feed algal blooms, and lead to muck accumulation, all of which negatively impact the seagrass that provides habitat for much of the IRL's marine life.[152]

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as the merging of an existing department, program, or activity into another department. Any program or activity transferred by a type two transfer retains all the statutory powers, duties, and functions it held previous to the transfer. The program or activity also retains its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between the program and the revenue source is retained.[153]

Rural Areas of Opportunity

A rural area of opportunity (RAO) is a rural community or region of rural communities that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.[154] By executive order, the Governor may designate up to three RAOs, establishing each region as a priority assignment for Rural Economic Development Initiative (REDI) agencies. The Governor can waive the criteria, requirements, or any similar provisions of any state economic development incentive for projects in a RAO.[155]

The currently designated RAOs are: [156]

- Northwestern RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and part of Walton County.

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[149] East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, vi (Aug. 26, 2016), *available at* http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf.
[150] *Id.* at ix. The main IRL-related industry groups are categorized as: Living Resources; Marine Industries; Recreation and Visitor-related; Resource Management; and Defense & Aerospace.
[151] Tetra Tech, Inc. & Closewaters, LLC, *Draft Save Our Indian River Lagoon Project Plan 2019 Update for Brevard County, Florida, xii (Mar. 2019), available at https://www.dropbox.com/s/j9pxd59mt1baf7q/Revised%202019%20Save%20Our%20Indian%20River%20Lagoon%20Project%20Plan%20Update%20032519.pdf?dl=0*.
[152] *Id*.
[153] Section 20.06(2), F.S.
[154] Section 288.0656(2)(d), F.S.
[155] Section 288.0656(7), F.S.
[156] Department of Economic Opportunity, *Rural Areas of Opportunity*, http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Dec. 2, 2019).

- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Statement of Estimated Regulatory Cost

If a proposed agency rule will have an adverse impact on small business or is likely to increase directly or indirectly regulatory costs in excess of $200,000 aggregated within one year after implementation, an agency must prepare a statement of estimated regulatory costs (SERC).[157] The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or an increase in regulatory costs. If the SERC shows that the adverse impact or regulatory costs of the proposed rule exceeds $1 million in the aggregate within five years after implementation, then the proposed rule must be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[158]

Biosolids

Approximately two-thirds of Florida's population is served by around 2,000 domestic wastewater facilities permitted by the DEP.[159] When domestic wastewater is treated, solid, semisolid, or liquid residue known as biosolids[160] accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.[161] Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the DEP.[162] The collected residue is high in organic content and contains moderate amounts of nutrients.[163]

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.[164] Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land

[157] Section 120.541, F.S.
[158] *Id*.
[159] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Dec. 9, 2019).
[160] Section 373.4595, F.S. Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.
[161] DEP, *Domestic Wastewater Biosolids*, https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids (last visited Dec. 9, 2019).
[162] Fla. Admin. Code R. 62-640.200(6).
[163] *Id*.
[164] DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) *available at* http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 5 (Sept. 2018), *available at* https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019).

application to pasture or agricultural lands.[165] About one-third of the total amount of biosolids produced is used for land application[166] and is subject to regulatory requirements established by the DEP to protect public health and the environment.[167]

Land application is the use of biosolids at a permitted site to provide nutrients or organic matter to the soil, such as agricultural land, golf courses, forests, parks, or reclamation sites. Biosolids are applied in accordance with restrictions based on crop nutrient needs, phosphorus limits in the area, and soil fertility.[168] Biosolids contain macronutrients (such as nitrogen and phosphorus) and micronutrients (such as copper, iron, and manganese) that are utilized by crops. The application of these nutrient-rich biosolids increases the organic content of the soil, fostering more productive plant growth.[169] To prevent odor or the contamination of soil, crops, livestock, and humans, land application sites must meet site management requirements such as site slopes, setbacks, and proximity to groundwater restrictions.[170] There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.[171]

[165] *Id*. at 4.
[166] *Id*. at 5.
[167] Fla. Admin. Code R. 62-640.
[168] DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida*, 8 (Sept. 2018), *available at* https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019); *see also*, United States EPA, A Plain English Guide to the EPA Part 503 Biosolids Rule, 26 (Sept. 1994), *available at* https://www.epa.gov/sites/production/files/2018-12/documents/plain-english-guide-part503-biosolids-rule.pdf (last visited Dec.. 9, 2019).
[169] *Id.* at 20.
[170] *Id*. at 9.
[171] DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) *available at* http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 20 (Sept. 2018), *available at* https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019). Wastewater treatment facilities commonly contract with waste haulers instead of applying the biosolids themselves.

Regulation of Biosolids by the DEP

The DEP regulates three classes of biosolids for beneficial use.
- Class B - minimum level of treatment;
- Class A - intermediate level of treatment; and
- Class AA - highest level of treatment.[172]

The DEP categorizes the classes based on treatment and quality. Treatment of biosolids must:
- Reduce or completely eliminate pathogens;
- Reduce the attractiveness of the biosolids for pests (such as insects and rodents); and
- Reduce the amount of toxic metals in the biosolids.[173]

Class AA biosolids can be distributed and marketed as fertilizer. Because they are the highest quality, they are not subject to the same regulations as Class A and Class B biosolids and are exempt from nutrient restrictions.[174] Typically, Class B biosolids are used in land application.[175]

[172] *Id*. at 6.
[173] *Id*. at 7.
[174] *Id*. at 8.
[175] *Id.* at 6.

Biosolids are regulated under Rule 62-640 of the Florida Administrative Code. The rules provide minimum requirements, including monitoring and reporting requirements, for the treatment, management, use, and disposal of biosolids. The rules are applicable to wastewater treatment facilities, appliers, and distributors[176] and include permit requirements for both treatment facilities and biosolids application sites.[177]

Each permit application for a biosolids application site must include a site-specific nutrient management plan (NMP) that establishes the specific rates of application and procedures to apply biosolids to land.[178] Biosolids may only be applied to land application sites that are permitted by the DEP and have a valid NMP.[179] Biosolids must be applied at rates established in accordance with the nutrient management plan and may be applied to a land application site only if all concentrations of minerals do not exceed ceiling and cumulative concentrations determined by rule.[180] According to the St. Johns Water Management District, application rates of biosolids are determined by crop nitrogen demand, which can often result in the overapplication of phosphorus to the soil and can increase the risk of nutrient runoff into nearby surface waters.[181]

Once a facility or site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.[182] The requirements are site-specific and can be increased or reduced by the DEP based on the quality or quantity of wastewater or biosolids treated; historical variations in biosolids characteristics; industrial wastewater or sludge contributions to the facility; the use, land application, or disposal of the biosolids; the water quality of surface and ground water and the hydrogeology of the area; wastewater or biosolids treatment processes; and the compliance history of the facility or application site.[183]

State Bans on the Land Application of Biosolids

Section 373.4595, F.S., sets out the statutory guidelines for the Northern Everglades and Estuaries Protection Program. This statute is designed to protect and promote the hydrology of Lake Okeechobee, and the Caloosahatchee and St. Lucie Rivers and their estuaries. As part of those protections, the Legislature banned the disposal of domestic wastewater biosolids within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient loadings in the watershed.[184] The prohibition against land application in these watersheds does not apply to Class AA biosolids that are distributed as fertilizer products in accordance with Rule 62-640.850 of the Florida Administrative Code.[185]

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[176] Fla. Admin. Code R. 62-640.100.
[177] Fla. Admin. Code R. 62-640.300.
[178] Fla. Admin. Code R. 62-640.500.
[179] *Id*.
[180] Fla. Admin. Code R. 62-640.700.
[181] Victoria R. Hoge, Environmental Scientist IV, St. Johns River Water Management District, *Developing a Biosolids Database for Watershed Modeling Efforts*, *abstract available at* http://archives.waterinstitute.ufl.edu/symposium2018/abstract_detail.asp?AssignmentID=1719 (last visited Mar. 8, 2019).
[182] Fla. Admin. Code R. 62-640.650.
[183] *Id*.
[184] Chapter 2016-1, Laws of Florida; *see* s. 373.4595, F.S.
[185] *Id*.

The land application of Class A and Class B biosolids is also prohibited within priority focus areas in effect for Outstanding Florida Springs if the land application is not in accordance with a NMP that has been approved by the DEP.[186] The NMP must establish the rate at which all biosolids, soil amendments, and nutrient sources at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged into groundwater and waters of the states.[187]

Local Regulation of Biosolids

The Indian River County Code addresses land application of biosolids by providing criteria for designated setbacks, reporting requirements, and required approval. In July 2018, the Indian River County Commission voted for a six-month moratorium on the land application of Class B biosolids on all properties within the unincorporated areas of the county.[188] The ordinance also directs the County Administrator to coordinate with the DEP on a study to report the findings and recommendations concerning Class B biosolids land application activities and potential adverse effects.[189] The County Commission voted in January 2019 to extend the moratorium for an additional six months.[190]

The City Council of Fellsmere adopted a similar moratorium, Ordinance 2018-06, in August 2018, authorizing a temporary moratorium for 180 days or until a comprehensive review of the impact on the city's ecosystem is completed.[191] In January 2019, the ordinance was extended for an additional 180 days.[192]

The Treasure Coast Regional Planning Council held a Regional Biosolids Symposium in June 2018, where regional representatives and stakeholders discussed biosolids and alternative techniques for disposal.[193] At its meeting in July, the Treasure Coast Regional Planning Council adopted a resolution encouraging state and local governments to prioritize the reduction and eventual elimination of the land application of human wastewater biosolids.[194] It also encouraged the state to establish a Pilot Projects Program to incentivize local utilities to implement new wastewater treatment technologies that would allow more efficient use of biosolids.[195]

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[186] Section 373.811(4), F.S.
[187] *Id*.
[188] Indian River County Commission Ordinance 18-2020 (Jul. 17, 2018), *available at* http://ircgov.granicus.com/player/clip/183?view_id=1&meta_id=64650 (last visited Dec. 9, 2019).
[189] *Id*.
[190] Indian River County Commission Ordinance 18-2642 (Jan. 14, 2019), *available at* http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302 (last visited Dec. 9, 2019).
[191] Fellsmere City Council Meeting, *Agenda* (Aug. 16, 2018), *available at* https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/8301/co20180816agenda.pdf.
[192] Fellsmere City Council Meeting, *Agenda* (Feb. 7, 2019), *available at* https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf.
[193] Treasure Coast Regional Planning Council Regional Biosolids Symposium, *Charting the Future of Biosolids Management Executive Summary* (Jun. 18, 2018), *available at* http://www.tcrpc.org/announcements/Biosolids/summit%20summary.pdf.
[194] Treasure Coast Regional Planning Council Resolution 18-03 (Jul. 20, 2018), *available at* http://www.flregionalcouncils.org/wp-content/uploads/2019/01/Treasure-Coast-Resolution-No.-18-03.pdf.
[195] *Id*.

Rule Development

In 2018, the DEP created a Biosolids Technical Advisory Committee (TAC) to establish an understanding of potential nutrient impacts of the land application of biosolids, evaluate current management practices, and explore opportunities to better protect Florida's water resources. The TAC members represent various stakeholders, including environmental and agricultural industry experts, large and small utilities, waste haulers, consultants, and academics.[196]

The TAC convened on four occasions from September 2018 to January 2019 and discussed the current options for biosolids management in the state, ways to manage biosolids to improve the protection of water resources, and research needs to build upon and improve biosolids management.[197]

Based on recommendations of the TAC and public input, the DEP published a draft rule on October 29, 2019.[198] Key proposals in the draft rule include:

- A prohibition on the land application of biosolids where the seasonal high water table is within 15 cm of the soil surface or 15 cm of the intended depth of biosolids placement. The existing rule requires a soil depth of two feet between the depth of biosolids placement and the water table level at the time the Class A or Class B biosolids are applied to the soil.
- A requirement that land application must be done in accordance with applicable BMAPs.
- Definitions for "capacity index," "percent water extractable phosphorus," and "seasonal high water table."
- More stringent requirements must be provided in the Nutrient Management Plan.
- All biosolids sites must enroll in a DACS BMP Program.
- All biosolids applications are considered projects of heightened public concern/interest,[199] meaning that a permit applicant must publish notice of their application one time only within fourteen days after a complete application is filed.[200]
- Increased monitoring for surface and groundwater.
- The requirement measures to be taken to prevent leaching of nutrients for the storage of biosolids.
- Existing facilities must be in compliance with the new rule within three years of the adoption date.

This biosolids rule required a SERC that exceeds the threshold to trigger the requirement for legislative ratification.[201] The SERC makes the following statements:

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[196] The seven members of TAC included two academic representatives from the University of Florida, two representatives of small and large utilities, and one representative each for environmental interests, agricultural interests, and waste haulers.
[197] DEP, *DEP Biosolids Technical Advisory Committee*, https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee (last visited Mar. 6, 2019).
[198] Florida Department of State, Notice of Proposed Rule: Rule No.: 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-640.800, 62-640.850, 62-640.880 (Oct. 29, 2019), https://www.flrules.org/gateway/View_Notice.asp?id=22546212 (last visited Dec. 5, 2019).
[199] Note: the draft rule uses the phrase "public interest" but the rule crossreferenced in the draft rule uses the phrase "public concern."
[200] Fla. Admin. Code R. 62-110.106(6).
[201] DEP, *Statement of Estimated Regulatory Costs (SERC), available at* https://content.govdelivery.com/attachments/FLDEP/2019/10/29/file_attachments/1313532/62-640%20SERC.pdf .

The revised rule may significantly reduce biosolids land application rates (the amount applied per acre on an annual basis) by an estimated 75 percent. In 2018, just under 90,000 dry tons of Class B biosolids were applied to biosolids land application sites with about 84,000 acres of the currently permitted 100,000 acres in Florida. Reduced land application rates would necessitate the permitting about four to ten times more land to accommodate the current quantity of land applied Class B biosolids.

As haulers have already permitted land application sites closer to the domestic wastewater facilities that generate biosolids, any additional sites are expected to be at greater distances from these facilities. This could result in longer hauling distances. Additionally, some existing sites may cease land application completely, either because the site may not be suitable for land application or because the landowner may not want to subject their property to ground water or surface water quality monitoring. The additional site monitoring requirements for ground water and surface water will also increase operational costs, so some biosolids site permittees, especially for smaller sites, may choose to cease operations. Under the proposed rule, some portion of currently land-applied Class B biosolids are expected to then be disposed of in landfills or be converted to Class AA biosolids. The reduction in land application rates, loss of land application sites, and shift away from land application could result in:

- Loss of biosolids hauling contracts.
- Loss of jobs with biosolids hauling companies.
- Loss of grass production and income for landowners.
- Increased operational expenses for biosolids haulers, and;
- Loss of cost savings and production for cattle ranchers and hay farmers.

Under the revised rule, biosolids land application rates will drop by an average of 75 percent. Some farmers indicate an economic value of about $60 per acre in fertilizer savings through biosolids land application. In 2018, approximately 84,000 acres were utilized for the land application of biosolids, which would represent a current fertilizer cost savings of approximately $5,040,000. This would be a loss of $3,780,000 in cost savings annually if 75 percent less biosolids can be applied per acre.[202]

The SERC includes the following statewide estimates:

- Capital costs for new permitting and land application sites of $10 million;
- Recurring costs for additional sites and transportation of wet biosolids of at least $31 million; and
- Additional monitoring costs of $1 million.[203]

[202] *Id.*
[203] *Id.*

The DEP expects more biosolids to be converted to class AA biosolids/fertilizer. They estimate the capital cost for additional class AA biosolids projects will be between $300-$400 million.[204] The DEP is currently reviewing lower cost regulatory alternatives that have been submitted.[205] The next step will be a hearing before the Environmental Regulation Commission and adoption of the rule. Following rule adoption, legislative ratification is required.[206]

Damages and Monetary Penalties

The DEP may institute a civil action (in court) or an administrative proceeding (in the Division of Administrative Hearings) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.[207] Civil actions and administrative proceedings have different procedures.[208] Administrative proceedings are often viewed as less formal, less lengthy, and less costly.

With respect to damages, the violator is liable for:

- Damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state; and
- Reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition.[209]

In addition to damages, a violator can be liable for penalties. For civil penalties, the DEP can levy up to $10,000 per offense. Each day of the violation is a separate offense. The DEP is directed to proceed administratively in all cases in which the DEP seeks penalties that do not exceed $10,000 per assessment. The DEP is prohibited from imposing penalties in excess of $10,000 in a notice of violation. The DEP cannot have more than one notice of violation pending against a party unless it occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.[210]

Section 403.121(3), F.S., sets out a penalty schedule for various violations. In particular, it includes the following penalties related to wastewater:

- $1,000 for failure to obtain a required wastewater permit.
- $2,000 for a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation resulting in an unpermitted or unauthorized discharge or effluent-limitation exceedance.
- $5,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation. [211]

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[204] *Id*.
[205] Email from Justin Wolfe, General Counsel, DEP, RE: Biosolids Rule (Dec. 2. 2019)(on file with the Environment and Natural Resources Committee).
[206] Section 120.541(3), F.S.
[207] Section 403.121, F.S.
[208] Sections 403.121 and 403.141, F.S.
[209] Section 403.121, F.S.
[210] *Id*.
[211] Section 403.121(3)(b), F.S.

A court or an administrative law judge may receive evidence in mitigation.[212] The DEP may also seek injunctive relief either judicially or administratively.[213] Additionally, criminal penalties are available for various types of violations of chapter 403, F.S.[214]

III. Effect of Proposed Changes:

The bill provides a series of whereas clauses related to water quality issues the state is seeking to resolve.

Section 1 titles the bill the "Clean Waterways Act."

Section 2 takes the following steps toward shifting regulation of onsite sewage treatment and disposal systems (OSTDSs) from the Department of Health (DOH) to the Department of Environmental Protection (DEP):

- By July 1, 2020, the DOH must provide a report to the Governor and the Legislature detailing the following information regarding OSTDSs:
  - The average number of permits issued each year;
  - The number of department employees conducting work on or related to the program each year; and
  - The program's costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.
- By December 31, 2020, the DOH and the DEP must submit recommendations to the Governor and the Legislature regarding the transfer of the Onsite Sewage Program from the DOH to the DEP. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the DEP.
- By June 30, 2021, the DOH and the DEP must enter into an interagency agreement that must address all agency cooperation for a period not less than five years after the transfer, including:
  - The continued role of the county health departments in the permitting, inspection, data management, and tracking of OSTDSs under the direction of the DEP.
  - The appropriate proportionate number of administrative positions, and their related funding levels and sources and assigned property, to be transferred from the DOH to the DEP.
  - The development of a recommended plan to address the transfer or shared use of facilities used or owned by the DOH.
  - Any operating budget adjustments that are necessary to implement the requirements of the bill. The bill details how operating budget adjustments will be made. The appropriate substantive committees of the Senate and the House of Representatives will be notified of the proposed revisions to ensure their consistency with legislative policy and intent.

Section 403.121(3)(b), F.S.

[214] Section 403.161, F.S.

- Effective July 1, 2021, the regulation of OSTDSs relating to the Onsite Sewage Program in the DOH is transferred by a type two transfer to the DEP. Transferred employees will retain their leave.

Section 3 amends s. 373.4131, F.S., relating to statewide environmental resource permitting (ERPs). The bill requires the DEP to train its staff on coordinating field inspections of stormwater structural controls, such as stormwater retention or detention ponds.

By January 1, 2021:
- The DEP and the water management districts (WMDs) must initiate rulemaking to update the stormwater design and operation regulations using the most recent scientific information available; and
- The DEP must evaluate inspection data relating to compliance by those entities that self-certify stormwater ERPs and must provide the Legislature with recommendations for improvements to the self-certification program.

Note: More stringent stormwater rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[215]

Section 4 amends s. 381.0065, F.S., relating to OSDTS regulation, effective July 1, 2021, to coincide with the DEP's role as the regulating entity for OSTDSs.

The bill requires the DEP to adopt rules to locate OSTDSs, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process must be completed by July 1, 2022. The rules must consider conventional and advanced OSTDS designs, impaired or degraded water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the OSTDS remediation plans developed as part of the basin management action plans (BMAPs), nutrient pollution, and the recommendations of the OSTDS technical advisory committee created by the bill.

Upon adoption of these rules, the rules will supersede existing statutory revisions relating to setbacks. The DEP must report the date of adoption of the rules to the Division of Law Revision for incorporation into the statutes.

The bill deletes language that is inconsistent with these provisions.

Note: New OSTDS rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[216]

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[215] *Id.*
[216] *Id.*

Section 5 creates s. 381.00652, F.S., to create an OSTDS technical advisory committee (TAC) within the DEP.

The responsibilities of the TAC are to:

- Provide recommendations to increase the availability in the marketplace of nutrient-removing OSTDSs, including systems that are cost-effective, low-maintenance, and reliable.
- Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing OSTDSs that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the NSF International.
- Provide recommendations for appropriate setback distances for OSTDSs from surface water, groundwater, and wells.

The DEP must use existing and available resources to administer and support the activities of the TAC.

By August 1, 2021, the DEP, in consultation with the DOH, will appoint nine members to the TAC:

- A professional engineer.
- A septic tank contractor.
- A representative from the home building industry.
- A representative from the real estate industry.
- A representative from the OSTDS industry.
- A representative from local government.
- Two representatives from the environmental community.
- A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

Members will serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

By January 1, 2022, the TAC will submit its recommendations to the Governor and the Legislature.

The TAC is repealed on August 15, 2022.

Section 6 repeals the DOH's technical review and advisory panel, effective July 1, 2021.

Section 7 amends s. 403.061, F.S., which sets out the DEP's powers and duties. The bill requires the DEP rules to reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and inflow and infiltration.

The bill authorizes the DEP to require public utilities or their affiliated companies holding, applying for, or renewing a domestic wastewater discharge permit to file annual reports and other data regarding transactions or allocations of common costs among the utility's permitted

systems. The DEP may require such reports or other data necessary to ensure a permitted entity is reporting expenditures on pollution mitigation and prevention, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The DEP is required to adopt rules to implement this subsection.

Note: Such rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[217]

Section 8 creates s. 403.0616, F.S., to establish a real-time water quality monitoring program within the DEP, subject to appropriation. The program's purpose is to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources. The DEP is encouraged to form public-private partnerships with established scientific entities with existing, proven real-time water quality monitoring equipment and experience in deploying such equipment.

Section 9 amends s. 403.067(7), F.S., relating to basin management action plans (BMAPs), to set out parameters for an OSTDS remediation plan and a wastewater treatment plan. It prohibits the DEP from requiring a higher cost option for a wastewater project within a BMAP if it achieves the same nutrient load reduction as a lower-cost option. It also makes revisions relating to agricultural best management practices (BMPs).

If the DEP identifies domestic wastewater facilities or OSTDSs as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the DEP determines that remediation is necessary to achieve the total maximum daily load (TMDL), the BMAP for a nutrient TMDL must create a wastewater treatment plan and/or an OSTDS remediation plan.

A wastewater treatment plan must address domestic wastewater and be developed by each local government in cooperation with the DEP, the WMD, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

- Provide for construction, expansion, or upgrades necessary to achieve the TMDL requirements applicable to the domestic wastewater facility.
- Include: the permitted capacity in average annual gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the BMAP no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality

[217] *Id.*

necessary to achieve a TMDL. The bill clarifies that a local government is not responsible for a private domestic wastewater facility's compliance with a BMAP.

An OSTDS remediation plan must be developed by each local government in cooperation with the DEP, the Department of Health, the WMDs, and public and private domestic wastewater facilities. The OSTDS remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for OSTDSs. To identify cost-effective and financially feasible projects for remediation of OSTDSs, the local government shall:

- Include an inventory of OSTDSs based on the best information available;
- Identify OSTDSs that would be eliminated through connection to existing or future central wastewater infrastructure, that would be replaced with or upgraded to enhanced nutrient-reducing systems, or that would remain on conventional OSTDSs;
- Estimate the costs of potential OSTDS connections, upgrades, or replacements; and
- Identify deadlines and interim milestones for the planning, design, and construction of projects.

The DEP must adopt the OSTDS remediation plan as part of the BMAP no later than July 1, 2025, or as required by existing law for Outstanding Florida Springs.

At least every two years, the Department of Agriculture and Consumer Services (DACS) must perform on-site inspections of each agricultural producer that enrolls in a BMP to ensure that such practice is being properly implemented. Verification must include a review of the BMP documentation required by the rule adopted by the DACS, including, but not limited to, nitrogen and phosphorus fertilizer application records. This information shall be provided to the DEP.

The bill authorizes the DACS, the University of Florida Institute of Food and Agricultural Sciences, and other state universities and Florida College System institutions with agricultural research programs to annually develop research plans and legislative budget requests to:

- Evaluate and suggest enhancements to the existing adopted BMPs to reduce nutrients;
- Develop new BMPs that, if proven effective, the DACS may adopt by rule; and
- Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to BMPs. The DEP may consider these projects for inclusion in a BMAP. These nutrient reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the BMAP.

To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the DEP and the DACS, by August 1 of each year.

Section 10 creates s. 403.0673, F.S., a wastewater grant program within the DEP. Subject to appropriation, the DEP may provide grants for projects that will reduce excess nutrient pollution for:

- Projects to retrofit OSTDSs to upgrade them to nutrient-reducing OSTDSs.
- Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
- Projects to connect OSTDSs to central sewer facilities.

In allocating such funds, first priority must be given to projects that subsidize the connection of OSTDSs to a wastewater treatment plant. Second priority must be given to any expansion of a collection or transmission system that promotes efficiency by planning the installation of wastewater transmission facilities to be constructed concurrently with other construction projects along a transportation right-of-way. Third priority must be given to all other connections of onsite sewage treatment and disposal systems to wastewater treatment plants.
In determining priorities, the DEP must consider:

- The estimated reduction in nutrient load per project;
- Project readiness;
- Cost-effectiveness of the project;
- The overall environmental benefit of a project;
- The location of a project within the plan area;
- The availability of local matching funds; and
- Projected water savings or quantity improvements associated with a project.

Each grant must require a minimum of a 50 percent local match of funds. However, the DEP may waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity. The DEP and the WMDs will coordinate to identify grant recipients in each district.

Beginning January 1, 2021, and each January 1 thereafter, the DEP must submit a report regarding the projects funded by the grant program to the Governor and the Legislature.

Section 11 creates s. 403.0855, F.S., on biosolids management. The bill provides legislative findings, requires the DEP to adopt rules for biosolids management, and exempts such rules from legislative ratification if they are adopted prior to the 2021 legislative session.

The bill specifies that a municipality or county may enforce or extend an ordinance, regulation, resolution, rule, moratorium, or policy that was adopted prior to November 1, 2019, relating to the land application of Class B biosolids until repealed by the municipality or county.

Section 12 amends s. 403.086, F.S., relating to sewage disposal facilities.

The bill prohibits facilities for sanitary sewage disposal from disposing of waste into Indian River Lagoon or its tributaries without providing for advanced waste treatment, beginning July 1, 2025.

The bill requires facilities for sanitary sewage disposal to have a power outage contingency plan that mitigates the impacts of power outages on the utility’s collection system and pump stations.

All facilities for sanitary sewage that control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility must

take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected waste water reaches the facility for appropriate treatment. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans that comply with the DEP rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. These facility action plans must be reported to the DEP. The facility report must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and replacement action plans required herein, as well as expenditures dedicated to pipe assessment, repair, and replacement.

The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys. These rules may not fix or revise utility rates or budgets. The bill clarifies that a utility, that must submit annual reports under other similar provisions created by the bill, may submit one report to comply with both provisions.
Substantial compliance with the action plan described above is evidence in mitigation for the purposes of assessing certain penalties.

Note: Such rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[218]

Section 13 amends s. 403.087, F.S., to require the DEP to issue operating permits for up to 10 years (rather than up to five) for facilities regulated under the National Pollutant Discharge Elimination System Program if the facility is meeting the stated goals in the action plan relating to the prevention of sanitary sewer overflows or underground pipe leaks.

Section 14 amends s. 403.088, F.S., relating to water pollution operation permits. The bill requires the permit to include a deliberate, proactive approach to investigating or surveying a significant percentage of the domestic wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner.

The permittee must submit an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule. The report must detail any deviation from annual expenditures related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement.

Substantial compliance with the requirements above is evidence in mitigation for the purposes of assessing penalties.

No later than March 1 of each year, the DEP must submit a report to the Governor and the Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility name; operator; permitted capacity in annual average gallons per day; number of overflows; total volume of sewage released; and, to the extent known and available, the volume of sewage recovered, the volume of

[218] *Id.*

sewage discharged to surface waters, and the cause of the sanitary sewer overflow, including whether it was caused by a third party.
Note: Rules required to implement this section would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[219]

Section 15 amends s. 403.0891, F.S., to require the DEP and the Department of Economic Opportunity to develop model ordinances that target nutrient reduction practices and use green infrastructure.

Section 16 amends s. 403.121, F.S., to increase the cap on the DEP's administrative penalties from $10,000 to $50,000. It also doubles all wastewater administrative penalties.

The bill provides that "failure to comply with wastewater permitting requirements or rules adopted thereunder will result in a $4,000 penalty.

Section 17 amends s. 403.1835, F.S., relating to water pollution control financial assistance. This is the section of law that sets out how the DEP administers the Clean Water State Revolving Loan Fund. The bill adds categories to the list of projects that should receive priority for funding. This includes:

- Projects that implement the requirements of the bill relating to wastewater infrastructure maintenance planning and reporting requirements created by the bill.
- Projects that promote efficiency by planning for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 18 amends s. 403.1838, F.S., to require that rules related to prioritization of funds for the Small Community Sewer Construction Assistance Grant Program include the:

- Prioritization of projects that prevent pollution, and
- Projects that plan for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 19 provides a statement that this act fulfills an important state interest.

Sections 20-45 make conforming changes.

Section 46 directs the Division of Law Revision to replace certain language in the bill with the date the DEP adopts certain rules on OSTDSs as required by the bill.

Section 47 states that except as otherwise expressly provided in the bill, the act will take effect July 1, 2021.

[219] *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply to this bill because it requires local governments to develop OSTDS remediation plans and wastewater treatment plans. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

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 following discussion identifies aspects of the bill that may cause a negative fiscal impact because they implement more stringent environmental requirements. However, it is worth noting that there are costs associated with failing to address pollution issues. Cleanup costs, human health impacts, ecosystem deterioration, loss of tourism, and decreased real estate values are some key examples of possible costs associated with pollution.

Updating stormwater rules and adopting new onsite sewage treatment disposal systems (OSTDS) and wastewater rules would likely cause a negative fiscal impact to the private sector. However, if that impact exceeds $1 million over five years, the rules will require legislative ratification, which means they will not go into effect without additional legislation.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to the private sector entities within basin management

action plans (BMAPs) that must address OSTDS or wastewater pollution to meet the total maximum daily load.

Private wastewater utilities that discharge into Indian River Lagoon may have costs associated to conversion to advanced waste treatment.

Utilities that fail to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration will be subject to a $4,000 fine for each violation. All wastewater administrative penalties are doubled under this bill. The cap on the Department of Environmental Protection's administrative penalties is increased to $50,000 from $10,000.

C. Government Sector Impact:

The DEP will incur additional costs in developing multiple new regulatory programs, updating BMAPs, and developing, submitting, and reviewing new reports.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to local governments that must address OSTDS or wastewater pollution to meet their TMDL. However, there is flexibility in how these plans are developed, which makes these costs speculative and subject to the development of each specific OSTDS remediation plan or wastewater treatment plan.

The implementation of a real-time water quality monitoring program will have a negative fiscal impact on the DEP, but this provision is subject to appropriation.

The wastewater grant program would have a positive fiscal impact on local governments, but this provision is subject to appropriation. The DEP will likely incur some costs associated with the development of this grant program and the report to the Governor and the Legislature. The DEP can absorb these costs within existing resources.

Public wastewater utilities that discharge into Indian River Lagoon may have costs associated with conversion to advanced waste treatment. However, the local governments in the region are spending substantial amounts on pollution cleanup. Lessening the pollutants in this waterbody may have a positive fiscal impact in the long term.

The impact of exempting the biosolids rule from ratification is speculative at this time because the rule has not been adopted. There is likely a negative fiscal impact to both the public and private sectors to meet the requirements of the new rule. There may be a long-term positive fiscal impact as a result of reduced cleanup costs and reduced damage to the natural systems associated with more rigorous land application requirements.

The increase in administrative penalties will likely have an indeterminate yet positive fiscal impact on the DEP.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.4131, 373.705, 373.707, 373.709, 373.807, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.0065, 381.00651, 381.0101, 403.061, 403.067, 403.086, 403.08601, 403.087, 403.0871, 403.0872, 403.088, 403.0891, 403.121, 403.1835, 403.1838, 403.707, 403.861, 489.551, and 590.02.

This bill creates the following sections of the Florida Statutes: 381.00652, 403.0616, 403.0673, and 403.0855.

This bill repeals section 381.0068 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 January 22, 2020:
The committee substitute:

- Corrects the name of the "National Sanitation Foundation" because it changed its name to "NSF International";
- Clarifies that a local government is not responsible for a private wastewater facility's compliance with a Basin Management Action Plan (BMAP);
- Clarifies that the records collected by the Department of Agriculture and Consumer Services (DACS) during their inspections include nitrogen and phosphorus fertilizer application records;
- Clarifies that wastewater infrastructure projects that comply with the sanitary sewer overflow, leakage, and infiltration and inflow requirements of the bill will receive priority funding from the state revolving loan fund by moving the prioritization to the section of law governing the state revolving loan fund;
- Clarifies that the Department of Environmental Protection (DEP) may not fix or revise utility rates of budgets;
- Clarifies that utilities that need to report on infiltration and inflow and leakage only need to submit one report to the DEP annually;
- Increases the cap on the DEP's administrative penalties to $50,000 from $10,000;
- Doubles the wastewater administrative penalties;

- Provides incentives for projects that promote efficiency by coordinating wastewater infrastructure expansions with other infrastructure improvements occurring within of along a transportation facility right-of-way;
- Includes these incentives in the small community sewer construction assistance program, the state revolving loan program, and the new wastewater grant program created by the bill;
- Clarifies that local governments with biosolids ordinances may retain those ordinance until repealed;
- Requires the DACS to provide information collected from on-site inspections of each agricultural producer enrolled in a best management practice (BMP) to the DEP. These on-site inspections are required at least every two years.

CS by Community Affairs on December 9, 2019:
The committee substitute:
- Effectuates a type two transfer of septic system oversight from the DOH to DEP rather than just requiring a report;
- Requires DEP to develop rules relating to the location of septic systems;
- Revises language related to DEP updating its stormwater rules;
- Requires DEP to make recommendations to the Legislature on self-certification of stormwater permits rather than prohibiting the use of self-certification in BMAP areas;
- Leaves the BMAP process for Outstanding Florida Springs while revising the requirement for OSTDS remediation plans and adding a requirement for wastewater treatment plans in the general BMAP statute;
- Requires that these new plans be incorporated into the BMAP by 2025;
- Removes provisions relating to Florida-Friendly Fertilizer Ordinances;
- Adds rural areas of opportunities to the possible grant recipients for the wastewater grant created by the bill;
- Removes provisions that would make agricultural BMPs enforceable earlier and in more impaired waterbodies;
- Adds a requirement that DACS conduct onsite inspections of BMPs at least every two years;
- Adds a requirement that DACS collect and remit certain records relating to agricultural BMPs to DEP;
- Adds language authorizing DACS and certain institutions of higher education to submit budget requests for certain activities relating to the improvement of agricultural BMPs;
- Removes the provision requiring additional notification and penalties related to sanitary sewer overflows and replaces it with numerous requirements relating to the prevention of sanitary sewer overflows, inflow and infiltration, and leakage;
- Removes provisions increasing penalties but adds “failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration” to the penalty schedule;
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making

recommendations to the Governor and Legislature regarding the regulation of OSTDSs;
- Requires DEP to adopt rules relating to biosolids management and exempts such rules from legislative ratification if they are adopted before the 2021 legislative session.
- Directs the Division of Law Revision to incorporate the date of rule adoption into the statutes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
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	.	
	.	

The Committee on Appropriations (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Clean Waterways Act."

Section 2. (1) By July 1, 2020, the Department of Health must provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the following information regarding the Onsite Sewage

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Program:

(a) The average number of permits issued each year;

(b) The number of department employees conducting work on or related to the program each year; and

(c) The program's costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.

(2) By December 31, 2020, the Department of Health and the Department of Environmental Protection shall submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the transfer of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the Department of Environmental Protection.

(3) By June 30, 2021, the Department of Health and the Department of Environmental Protection shall enter into an interagency agreement based on the Department of Health report required under subsection (2) and on recommendations from a plan that must address all agency cooperation for a period not less than 5 years after the transfer, including:

(a) The continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the Department of Environmental Protection.

(b) The appropriate proportionate number of administrative,

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auditing, inspector general, attorney, and operational support positions, and their related funding levels and sources and assigned property, to be transferred from the Office of General Counsel, the Office of Inspector General, and the Division of Administrative Services or other relevant offices or divisions within the Department of Health to the Department of Environmental Protection.

(c) The development of a recommended plan to address the transfer or shared use of buildings, regional offices, and other facilities used or owned by the Department of Health.

(d) Any operating budget adjustments that are necessary to implement the requirements of this act. Adjustments made to the operating budgets of the agencies in the implementation of this act must be made in consultation with the appropriate substantive and fiscal committees of the Senate and the House of Representatives. The revisions to the approved operating budgets for the 2021-2022 fiscal year which are necessary to reflect the organizational changes made by this act must be implemented pursuant to s. 216.292(4)(d), Florida Statutes, and are subject to s. 216.177, Florida Statutes. Subsequent adjustments between the Department of Health and the Department of Environmental Protection which are determined necessary by the respective agencies and approved by the Executive Office of the Governor are authorized and subject to s. 216.177, Florida Statutes. The appropriate substantive committees of the Senate and the House of Representatives must also be notified of the proposed revisions to ensure their consistency with legislative policy and intent.

(4) Effective July 1, 2021, all powers, duties, functions,

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records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the regulation of onsite sewage treatment and disposal systems relating to the Onsite Sewage Program in the Department of Health are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Environmental Protection.

(5) Notwithstanding chapter 60L-34, Florida Administrative Code, or any law to the contrary, employees who are transferred from the Department of Health to the Department of Environmental Protection to fill positions transferred by this act retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

Section 3. Subsection (1) of section 20.255, Florida Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(1) The head of the Department of Environmental Protection shall be a secretary, who shall be appointed by the Governor, with the concurrence of one member ~~three members~~ of the Cabinet. The secretary shall be confirmed by the Florida Senate. The secretary shall serve at the pleasure of the Governor.

Section 4. Paragraphs (a) and (b) of subsection (7) of section 373.036, Florida Statutes, are amended to read:

373.036 Florida water plan; district water management plans.—

(7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

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(a) By March 1, annually, each water management district shall prepare and submit to the Office of Economic and Demographic Research, the department, the Governor, the President of the Senate, and the Speaker of the House of Representatives a consolidated water management district annual report on the management of water resources. In addition, copies must be provided by the water management districts to the chairs of all legislative committees having substantive or fiscal jurisdiction over the districts and the governing board of each county in the district having jurisdiction or deriving any funds for operations of the district. Copies of the consolidated annual report must be made available to the public, either in printed or electronic format.

(b) The consolidated annual report shall contain the following elements, as appropriate to that water management district:

1. A district water management plan annual report or the annual work plan report allowed in subparagraph (2)(e)4.

2. The department-approved minimum flows and minimum water levels annual priority list and schedule required by s. 373.042(3).

3. The annual 5-year capital improvements plan required by s. 373.536(6)(a)3.

4. The alternative water supplies annual report required by s. 373.707(8)(n).

5. The final annual 5-year water resource development work program required by s. 373.536(6)(a)4.

6. The Florida Forever Water Management District Work Plan annual report required by s. 373.199(7).

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7. The mitigation donation annual report required by s. 373.414(1)(b)2.

8. Information on all projects related to water quality or water quantity as part of a 5-year work program, including:

a. A list of all specific projects identified to implement a basin management action plan, including any projects to connect onsite sewage treatment and disposal systems to central sewerage systems and convert onsite sewage treatment and disposal systems to enhanced nutrient reducing onsite sewage treatment and disposal systems, or a recovery or prevention strategy;

b. A priority ranking for each listed project for which state funding through the water resources development work program is requested, which must be made available to the public for comment at least 30 days before submission of the consolidated annual report;

c. The estimated cost for each listed project;

d. The estimated completion date for each listed project;

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project; and

f. A quantitative estimate of each listed project's benefit to the watershed, water body, or water segment in which it is located.

9. A grade for each watershed, water body, or water segment in which a project listed under subparagraph 8. is located representing the level of impairment and violations of adopted minimum flow or minimum water levels. The grading system must reflect the severity of the impairment of the watershed, water

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body, or water segment.

Section 5. Subsections (7) and (8) are added to section 373.223, Florida Statutes, to read:

373.223 Conditions for a permit.—

(7) A consumptive use permit to use water derived from a spring for bottled water as defined in s. 500.03 may only be approved by unanimous vote by the governing board finding that the applicant meets the criteria in subsection (1). This subsection shall expire on June 30, 2022.

(8) The Department of Environmental Protection shall, in coordination with the water management districts, conduct a study on the bottled water industry in Florida.

(a) The study must do all of the following:

1. Identify all springs statewide that have an associated consumptive use permit for a bottled water facility producing its product with water derived from a spring as well as:

a. The magnitude of the spring;

b. Whether the spring has been identified as an Outstanding Florida Spring as defined in s. 373.802;

c. Any department or water management district adopted minimum flow or minimum water levels, the status of any adopted minimum flow or minimum water levels, and any associated recovery or prevention strategy;

d. The permitted and actual use associated with the consumptive use permits;

e. The reduction in flow associated with the permitted and actual use associated with the consumptive use permits;

f. The impact on springs of bottled water facilities as compared to other users; and

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g. Types of water conservation measures employed at bottled water facilities permitted to derive water from a spring.

2. Identify the labeling and marketing regulations associated with the identification of bottled water as spring water, including whether these regulations incentivize the withdrawal of water from springs.

3. Evaluate the direct and indirect economic benefits to the local communities resulting from bottled water facilities that derive water from springs, including but not limited to tax revenue, job creation and wages.

4. Evaluate the direct and indirect costs to the local communities located in proximity to springs impacted by withdrawals from bottled water production, including, but not limited to, the decreased recreational value of the spring and the cost to other users for the development of alternative water supply or reductions in permit durations and allocations.

5. Include a cost-benefit analysis of withdrawing, producing, marketing, selling, and consuming spring water as compared to other sources of bottled water.

6. Evaluate how much bottled water derived from Florida springs is sold in this state.

(b) The department shall submit a report containing the findings of the study to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Economic and Demographic Research by June 30, 2021.

(c) As used in this section, the term "bottled water" has the same meaning as in s. 500.03 and the term "water derived from a spring" means water derived from an underground formation from which water flows naturally to the surface of the earth in

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the manner described in 21 C.F.R. 165.110(a)(2)(vi).

Section 6. Subsection (5) of section 373.4131, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

373.4131 Statewide environmental resource permitting rules.—

(5) To ensure consistent implementation and interpretation of the rules adopted pursuant to this section, the department shall conduct or oversee regular assessment and training of its staff and the staffs of the water management districts and local governments delegated local pollution control program authority under s. 373.441. The training must include field inspections of publicly and privately owned stormwater structural controls, such as stormwater retention or detention ponds.

(6) By January 1, 2021:

(a) The department and the water management districts shall initiate rulemaking, including updates to the Environmental Resource Permit Applicant's Handbooks, to update the stormwater design and operation regulations using the most recent scientific information available. As part of rule development, the department must consider and address low-impact design best management practices and design criteria that increase the removal of nutrients from stormwater discharges, and measures for consistent application of the net improvement performance standard to ensure significant reductions of any pollutant loadings to a waterbody; and

(b) The department shall evaluate inspection data relating to compliance by those entities that submit a self-certification under s. 403.814(12) and provide the Legislature with

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recommendations for improvements to the self-certification process.

Section 7. Effective July 1, 2021, present paragraphs (d) through (q) of subsection (2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (e) through (r), respectively, a new paragraph (d) is added to subsection (2), and subsections (3) and (4) of that section are amended, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the term:

(d) "Department" means the Department of Environmental Protection.

(3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The department shall:

(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, ~~decreases to setback requirements where no health hazard exists,~~ increases for the lot-flow allowance for performance-based systems, requirements for separation from water table elevation during the wettest season, requirements for the design and construction of any component part of an onsite sewage treatment and disposal system, application and permit requirements for persons who maintain an onsite sewage treatment and disposal system, requirements for maintenance and service agreements for aerobic treatment units and performance-based treatment systems, and recommended standards, including disclosure requirements, for voluntary system inspections to be


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performed by individuals who are authorized by law to perform such inspections and who shall inform a person having ownership, control, or use of an onsite sewage treatment and disposal system of the inspection standards and of that person's authority to request an inspection based on all or part of the standards.

(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an onsite sewage treatment and disposal system for a residence or establishment with an estimated domestic sewage flow of 10,000 gallons or less per day, or an estimated commercial sewage flow of 5,000 gallons or less per day, which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, sited, repaired, modified, abandoned, used, operated, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination, including impacts from nutrient pollution, and surface water contamination and to preserve the public health. The department is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule interpretation, the secretary of the department ~~State Surgeon General~~, or his or her designee, shall timely assign a staff person to resolve the dispute.

(d) Grant variances in hardship cases under the conditions

prescribed in this section and rules adopted under this section.

(e) Permit the use of a limited number of innovative systems for a specific period of time, when there is compelling evidence that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.

(f) Issue annual operating permits under this section.

(g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.

(h) Conduct enforcement activities, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted under this section, part I of chapter 386, or part III of chapter 489.

(i) Provide or conduct education and training of department personnel, service providers, and the public regarding onsite sewage treatment and disposal systems.

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal

systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. ~~Research projects shall not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee.~~

(k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.

(l) Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any system regulated under this chapter and not regulated by the Department of Environmental Protection.

(m) Permit and inspect portable or temporary toilet services and holding tanks. The department shall review applications, perform site evaluations, and issue permits for the temporary use of holding tanks, privies, portable toilet services, or any other toilet facility that is intended for use on a permanent or nonpermanent basis, including facilities placed on construction sites when workers are present. The department may specify standards for the construction, maintenance, use, and operation of any such facility for temporary use.

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(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer's specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include: training, access to approved spare parts and components, access to manufacturer's maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section.~~, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that~~ The issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department ~~of Environmental Protection~~. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained before ~~prior to~~ the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or

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establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such


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system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation,

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and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department ~~of Health~~, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) The department shall adopt rules to locate onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process for such rules must be completed by July 1, 2022, and the department shall notify the Division of Law

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Revision of the date such rules take effect. The rules must consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to s. 381.00652.

(f) ~~(e)~~ Onsite sewage treatment and disposal systems that are permitted before the rules identified in paragraph (e) take effect may ~~must~~ not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of

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retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

~~(f) Except as provided under paragraphs (e) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.~~

(g) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those

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residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than ~~the provisions~~ specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under

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this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

a. The Secretary of Environmental Protection ~~State Surgeon General~~ or his or her designee.

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b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

e. A representative from the Department of Health ~~Environmental Protection~~.

f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This

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paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department may ~~shall~~ not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing

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purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system’s design.

2. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an

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outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under ~~the provisions of~~ chapter 120.

3. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced. The reports may be submitted electronically.

4. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own performance-based treatment system upon written certification from the system manufacturer's approved representative that the property owner

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has received training on the proper installation and service of the system. The maintenance service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

5. The property owner shall obtain a biennial system operating permit from the department for each system. The department shall inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with ~~the provisions of~~ this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from

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surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent shall be deemed to be in compliance with this standard.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection

as defined by department rule.

3. In areas not scheduled to be served by a central sewer, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other ~~provision of~~ law, an onsite

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sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewer system until December 31, 2020.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(k) ~~(2)(j)~~. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

~~(o) The department shall appoint a research review and~~

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~~advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:~~

~~1. A representative of the State Surgeon General, or his or her designee.~~

~~2. A representative from the septic tank industry.~~

~~3. A representative from the home building industry.~~

~~4. A representative from an environmental interest group.~~

~~5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.~~

~~6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.~~

~~7. A representative from local government who is knowledgeable about domestic wastewater treatment.~~

~~8. A representative from the real estate profession.~~

~~9. A representative from the restaurant industry.~~

~~10. A consumer.~~

~~Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.~~

(o) ~~(p)~~ An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner’s authorized representative, or by a

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contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(p) ~~(q)~~ The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(q) ~~(r)~~ Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(r) ~~(s)~~ In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering may ~~shall~~ not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(s) ~~(t)~~ Notwithstanding ~~the provisions of~~ subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield may ~~shall~~ not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an

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applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system ~~approved by the State Health Office~~ that is capable of reducing effluent nitrate by at least 50 percent in accordance with department rules; or a system other than a system using alternative drainfield materials in accordance with department rules ~~approved by the county health department pursuant to department rule other than a system using alternative drainfield materials~~. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water may ~~shall~~ not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does

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not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(t) ~~(u)~~ 1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. The reports may be submitted electronically.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

3. A septic tank contractor licensed under part III of chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic


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treatment unit system may be replaced with parts that meet manufacturer's specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part's equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(u) ~~(v)~~ The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(v) ~~(w)~~ Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system shall transfer with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction. This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution (1885).

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(w) ~~(x)~~ A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(x) ~~(y)~~1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that

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serves a property that is foreclosed upon is not considered abandoned.

(y) ~~(z)~~ If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(z) ~~(aa)~~ An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and

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assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

Section 8. Subsection (7) is added to section 381.0065, Florida Statutes, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(7) USE OF NUTRIENT REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a total maximum daily load, the department shall implement a fast-track approval process for the use in this state of American National Standards Institute 245 systems approved by NSF International before July 1, 2020.

Section 9. Section 381.00652, Florida Statutes, is created to read:

381.00652 Onsite sewage treatment and disposal systems technical advisory committee.—

(1) An onsite sewage treatment and disposal systems technical advisory committee, a committee as defined in s. 20.03(8), is created within the department. The committee shall:

(a) Provide recommendations to increase the availability in the marketplace of enhanced nutrient-reducing onsite sewage treatment and disposal systems, including systems that are cost-effective, low-maintenance, and reliable.

(b) Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting,

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to facilitate the introduction and use of enhanced nutrient-reducing onsite sewage treatment and disposal systems that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the NSF International.

(c) Provide recommendations for appropriate setback distances for onsite sewage treatment and disposal systems from surface water, groundwater, and wells.

(2) The department shall use existing and available resources to administer and support the activities of the committee.

(3)(a) By August 1, 2021, the department, in consultation with the Department of Health, shall appoint no more than 10 members to the committee, including, but not limited to, the following:

1. A professional engineer.

2. A septic tank contractor.

3. Two representatives from the home building industry.

4. A representative from the real estate industry.

5. A representative from the onsite sewage treatment and disposal system industry.

6. A representative from local government.

7. Two representatives from the environmental community.

8. A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

(b) Members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

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(4) By January 1, 2022, the committee shall submit its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) This section expires August 15, 2022.

(6) For purposes of this section, the term "department" means the Department of Environmental Protection.

Section 10. Effective July 1, 2021, section 381.0068, Florida Statutes, is repealed.

Section 11. Present subsections (14) through (44) of section 403.061, Florida Statutes, are redesignated as subsections (15) through (45), respectively, a new subsection (14) is added to that section, and subsection (7) of that section is amended, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this act. Any rule adopted pursuant to this act must ~~shall~~ be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. A ~~No~~ county, municipality, or political subdivision may not ~~shall~~ adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone

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nonattainment area. Rules adopted pursuant to this act may ~~shall~~ not require dischargers of waste into waters of the state to improve natural background conditions. The department shall adopt rules to reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and inflow and infiltration. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, may ~~shall~~ not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(14) In order to promote resilient utilities, require public utilities or their affiliated companies holding, applying for, or renewing a domestic wastewater discharge permit to file annual reports and other data regarding transactions or allocations of common costs and expenditures on pollution mitigation and prevention among the utility's permitted systems, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The department shall adopt rules to

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implement this subsection.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 12. Section 403.0616, Florida Statutes, is created to read:

403.0616 Real-time water quality monitoring program.-

(1) Subject to appropriation, the department shall establish a real-time water quality monitoring program to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources.

(2) In order to expedite the creation and implementation of the program, the department is encouraged to form public-private partnerships with established scientific entities that have proven existing real-time water quality monitoring equipment and experience in deploying the equipment.

Section 13. Subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the

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watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when ~~where~~ appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When ~~Where~~ appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended

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to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least ~~not less than~~ 5 days, but not ~~nor~~ more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan shall include:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;

b. A description of best management practices adopted by

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rule;

c. A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;

d. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; ~~and~~

e. A planning-level estimate of each listed project's expected load reduction, if applicable; and~~.~~

f. An estimated allocation of the pollutant load reduction for each point source or category of point sources.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement ~~the provisions of~~ this section.

6. The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under

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paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. ~~The provisions of~~ The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

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a. A wastewater treatment plan that addresses domestic wastewater developed by each local government in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities within the jurisdiction of the local government. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility’s compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local

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government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal systems connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as

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required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and provides additional benefits.

(b) *Total maximum daily load implementation.*—

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water management district must be consistent with this section and does not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for the adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

a. Permitting and other existing regulatory programs, including water-quality-based effluent limitations;

b. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(22) ~~s. 403.061(21)~~, and public education;

c. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts or basin management action plans developed pursuant to this subsection;

d. Trading of water quality credits or other equitable

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economically based agreements;

e. Public works including capital facilities; or

f. Land acquisition.

2. For a basin management action plan adopted pursuant to paragraph (a), any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, must be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department may not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads must be implemented through NPDES permit conditions that provide for a compliance schedule. In such instances, a facility's NPDES permit must allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan may not exceed 5 years. Upon issuance of an order adopting the plan, the permit must be reopened or renewed, as necessary, and permit conditions consistent with the plan must be established. Notwithstanding the other provisions of this subparagraph, upon request by an NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations before the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer system permits and other stormwater sources, implementation of a

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total maximum daily load or basin management action plan must be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department must be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state, regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan must be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan must demonstrate compliance with the pollutant reductions established under subsection (6) by implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water quality monitoring prescribed by the department or a water


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management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan may not be required by permit, enforcement action, or otherwise to implement additional management strategies, including water quality credit trading, to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin management action plan as specified in subparagraph (a)6.

(c) *Best management practices.*—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water

management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including site inspection and recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented

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pursuant to paragraph (12)(b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from ~~the provisions of~~ s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from ~~the provisions of~~ s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water


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management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Subject to subparagraph 6., the Department of Agriculture and Consumer Services shall provide to the department information that it obtains pursuant to subparagraph (d)3.

6. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3., ~~and~~ 4., and 5. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request, records made

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confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the confidentiality specified by this subparagraph for such records is maintained.

7.~~6.~~ ~~The provisions of~~ Subparagraphs 1. and 2. do not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

(d) *Enforcement and verification of basin management action plans and management strategies.*—

1. Basin management action plans are enforceable pursuant to this section and ss. 403.121, 403.141, and 403.161. Management strategies, including best management practices and water quality monitoring, are enforceable under this chapter.

2. No later than January 1, 2017:

a. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of best management practices or other measures pursuant to sub-subparagraph (b)2.g.;

b. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures


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to verify implementation of nonagricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)1.; and

c. The Department of Agriculture and Consumer Services, in consultation with the water management districts and the department, shall initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph(c)2.

The rules required under this subparagraph shall include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including best management practices or water quality monitoring as a result of noncompliance.

3. At least every 2 years, the Department of Agriculture and Consumer Services shall perform onsite inspections of each agricultural producer that enrolls in a best management practice to ensure that such practice is being properly implemented. Such verification must include a collection and review of the best management practice documentation from the previous 2 years required by rule adopted in accordance with subparagraph (c)2., including, but not limited to, nitrogen and phosphorous fertilizer application records, which must be collected and retained pursuant to subparagraphs (c)3., 4., and 6. The Department of Agriculture and Consumer Services shall initially prioritize the inspection of agricultural producers located in the basin management action plans for Lake Okeechobee, the Indian River Lagoon, the Caloosahatchee River and Estuary, and

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Silver Springs.

(e) *Cooperative agricultural regional water quality improvement element.*—

1. The department, the Department of Agriculture and Consumer Services, and owners of agricultural operations in the basin shall develop a cooperative agricultural regional water quality improvement element as part of a basin management action plan only if:

a. Agricultural measures have been adopted by the Department of Agriculture and Consumer Services pursuant to subparagraph (c)2. and have been implemented and the waterbody remains impaired;

b. Agricultural nonpoint sources contribute to at least 20 percent of nonpoint source nutrient discharges; and

c. The department determines that additional measures, in combination with state-sponsored regional projects and other management strategies included in the basin management action plan, are necessary to achieve the total maximum daily load.

2. The element will be implemented through the use of cost-sharing projects. The element must include cost-effective and technically and financially practical cooperative regional agricultural nutrient reduction projects that can be implemented on private properties on a site-specific, cooperative basis. Such cooperative regional agricultural nutrient reduction projects may include land acquisition in fee or conservation easements on the lands of willing sellers and site-specific water quality improvement or dispersed water management projects on the lands of project participants.

3. To qualify for participation in the cooperative

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agricultural regional water quality improvement element, the participant must have already implemented the interim measures, best management practices, or other measures adopted by the Department of Agriculture and Consumer Services pursuant to subparagraph (c)2. The element may be included in the basin management action plan as a part of the next 5-year assessment under subparagraph (a)6.

4. The department may submit a legislative budget request to fund projects developed pursuant to this paragraph.

(f) *Data collection and research.*—

1. The Department of Agriculture and Consumer Services, in cooperation with the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions with agricultural research programs, shall annually develop research plans and legislative budget requests to:

a. Evaluate and suggest enhancements to the existing adopted agricultural best management practices to reduce nutrient runoff;

b. Develop new best management practices that, if proven effective, the Department of Agriculture and Consumer Services may adopt by rule pursuant to subparagraph (c)2.; and

c. Develop agricultural nutrient runoff reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to best management practices. The department may consider these projects for inclusion in a basin management action plan. These nutrient runoff reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management

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strategies currently included in the basin management action plan.

2. To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the department and the Department of Agriculture and Consumer Services by August 1, 2020, for the 2021-2022 fiscal year, and by May 1 for each subsequent fiscal year.

3. The department shall work with the University of Florida Institute of Food and Agricultural Sciences and regulated entities to consider the adoption by rule of best management practices for nutrient impacts from golf courses. Such adopted best management practices are subject to the requirements of paragraph (c).

Section 14. Section 403.0671, Florida Statutes, is created to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include:

(a) Projects to:

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1693 1. Replace onsite sewage treatment and disposal systems
1694 with enhanced nutrient reducing onsite sewage treatment and
1695 disposal systems.
1696 2. Install or retrofit onsite sewage treatment and disposal
1697 systems with enhanced nutrient reducing technologies.
1698 3. Construct, upgrade, or expand domestic wastewater
1699 treatment facilities to meet the wastewater treatment plan
1700 required under s. 403.067(7)(a)9.
1701 4. Connect onsite sewage treatment and disposal systems to
1702 domestic wastewater treatment facilities;
1703 (b) The estimated costs, nutrient load reduction estimates,
1704 and other benefits of each project;
1705 (c) The estimated implementation timeline for each project;
1706 (d) A proposed 5-year funding plan for each project and the
1707 source and amount of financial assistance the department, a
1708 water management district, or other project partner will make
1709 available to fund the project; and
1710 (e) The projected costs of installing enhanced nutrient
1711 reducing onsite sewage treatment and disposal systems on
1712 buildable lots in priority focus areas to comply with s.
1713 373.811.
1714 (2) By July 1, 2021, the department shall submit a report
1715 to the Governor, the President of the Senate, and the Speaker of
1716 the House of Representatives that provides an assessment of the
1717 water quality monitoring being conducted for each basin
1718 management action plan implementing a nutrient total maximum
1719 daily load. In developing the report, the department may
1720 coordinate with water management districts and any applicable
1721 university. The report must:

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(a) Evaluate the water quality monitoring prescribed for each basin management action plan to determine if it is sufficient to detect changes in water quality caused by the implementation of a project.

(b) Identify gaps in water quality monitoring.

(c) Recommend ways to address water quality monitoring needs.

(3) Beginning January 1, 2022, and each January 1 thereafter, the department shall submit to the Office of Economic and Demographic Research the cost estimates for projects required under s. 403.067(7)(a)9. The office shall include the project cost estimates in its annual assessment conducted pursuant to s. 403.928.

Section 15. Section 403.0673, Florida Statutes, is created to read:

403.0673 Wastewater grant program.—A wastewater grant program is established within the Department of Environmental Protection.

(1) Subject to the appropriation of funds by the Legislature, the department may provide grants for the following projects within a basin management action plan, an alternative restoration plan adopted by final order, or a rural area of opportunity under s. 288.0656 which will individually or collectively reduce excess nutrient pollution:

(a) Projects to retrofit onsite sewage treatment and disposal systems to upgrade them to enhanced nutrient-reducing onsite sewage treatment and disposal systems.

(b) Projects to construct, upgrade, or expand facilities to provide advanced waste treatment, as defined in s. 403.086(4).

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(c) Projects to connect onsite sewage treatment and disposal systems to central sewer facilities.

(2) In allocating such funds, priority must be given to projects that subsidize the connection of onsite sewage treatment and disposal systems to wastewater treatment plants. First priority must be given to subsidize connection to existing infrastructure. Second priority must be given to any expansion of a collection or transmission system that promotes efficiency by planning the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way. Third priority must be given to all other connection of onsite sewage treatment and disposal systems to wastewater treatment plants. The department shall consider the estimated reduction in nutrient load per project; project readiness; cost-effectiveness of the project; overall environmental benefit of a project; the location of a project; the availability of local matching funds; and projected water savings or quantity improvements associated with a project.

(3) Each grant for a project described in subsection (1) must require a minimum of a 50 percent local match of funds. However, the department may, at its discretion, waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

(4) The department shall coordinate with each water management district, as necessary, to identify grant recipients in each district.

(5) Beginning January 1, 2021, and each January 1

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thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 16. Section 403.0855, Florida Statutes, is created to read:

403.0855 Biosolids management.—

(1) The Legislature finds that it is in the best interest of this state to regulate biosolids management in order to minimize the offsite migration of nutrients that impair waterbodies. The Legislature further finds that the expedited implementation of the recommendations of the Biosolids Technical Advisory Committee, including permitting according to site-specific application conditions, an increased inspection rate, groundwater and surface water monitoring protocols, and nutrient management research, will improve biosolids management and assist in protecting this state's water resources and water quality.

(2) The department shall adopt rules for biosolids management.

(3) Effective July 1, 2020, all biosolids application sites must meet department rules in effect at the time of the renewal of the biosolids application site permit or facility permit.

(4) A municipality or county may enforce or extend an ordinance, a regulation, a resolution, a rule, a moratorium, or a policy, any of which was adopted before November 1, 2019, relating to the land application of Class B biosolids until the ordinance, regulation, resolution, rule, moratorium, or policy is repealed by the municipality or county.

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(5) The permittee of a biosolids land application site shall:

(a) Conduct the land application of biosolids in accordance with basin management action plans adopted in accordance with ss. 373.807 and 403.067(7).

(b) Establish a groundwater monitoring program approved by the department for land application sites when:

1. The application rate in the nutrient management plan exceeds more than 160 pounds per acre per year of total plant available nitrogen or 40 pounds per acre per year of total P2O5; or

2. The soil capacity index is less than 0 mg/kg.

(c) When soil fertility testing indicates the soil capacity index has become less than 0 mg/kg, establish a groundwater monitoring program in accordance with department rules within 1 year of the date of the sampling results.

(d) When groundwater monitoring is not required, allow the department to install groundwater monitoring wells at any time during the effective period of the department-issued facility or land application site permit and conduct monitoring.

(e) Ensure a minimum unsaturated soil depth of 2 feet between the depth of biosolids placement and the water table level at the time the Class A or Class B biosolids are applied to the soil. Biosolids may not be applied on soils that have a seasonal high-water table less than 15 centimeters from the soil surface or within 15 centimeters of the intended depth of biosolids placement. As used in this section, the term "seasonal high water" means the elevation to which the ground and surface water may be expected to rise due to a normal wet season.

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(f) Be enrolled in the Department of Agriculture and Consumer Service's Best Management Practices Program or be within an agricultural operation enrolled in the program for the applicable commodity type.

(6) This subsection and subsection (5) are repealed upon the effective date of biosolids rules adopted by the department after July 1, 2020.

Section 17. Present subsections (7) through (10) of section 403.086, Florida Statutes, are redesignated as subsections (8) through (11), respectively, paragraph (d) is added to subsection (1) and a new subsection (7) is added to that section, and paragraph (c) of subsection (1) and subsection (2) of that section are amended, to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c) Notwithstanding ~~any other provisions of~~ this chapter or chapter 373, facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, ~~or~~ Charlotte Harbor Bay, or, beginning July 1, 2025, Indian River Lagoon, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in subsection (4), approved by the department. This paragraph does ~~shall~~ not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the

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named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

(d) By December 31, 2020, the department, in consultation with the water management districts and sewage disposal facilities, shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a progress report on the status of upgrades made by each facility to meet the advanced waste treatment requirements under paragraph (c). The report must include a list of sewage disposal facilities required to upgrade to advanced waste treatment, the preliminary cost estimates for the upgrades, and a projected timeline of the dates by which the upgrades will begin and be completed and the date by which operations of the upgraded facility will begin.

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment, a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations, and~~, in addition thereto,~~ advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform is ~~shall be~~ punishable by a civil penalty of $500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(7) All facilities for sanitary sewage under subsection (2) which control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility shall take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate

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treatment. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans with at least a 5-year planning horizon which comply with department rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. The pipe assessment, repair, and replacement action plans must be reported to the department. The facility action plan must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and the required replacement action plans; expenditures that are dedicated to pipe assessment, repair, and replacement; and expenditures designed to limit the presence of fats, roots, oils, and grease in the utility's collection system. The department shall adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys; however, such department rules may not fix or revise utility rates or budgets. Any entity subject to this subsection and s. 403.061(14) may submit one report to comply with both provisions. Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141.

Section 18. Present subsections (4) through (10) of section 403.087, Florida Statutes, are redesignated as subsections (5) through (11), respectively, and a new subsection (4) is added to that section, to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(4) The department shall issue an operation permit for a domestic wastewater treatment facility other than a facility

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regulated under the National Pollutant Discharge Elimination System Program under s. 403.0885 for a term of up to 10 years if the facility is meeting the stated goals in its action plan adopted pursuant to s. 403.086(7).

Section 19. Present subsections (3) and (4) of section 403.088, Florida Statutes, are redesignated as subsections (4) and (5), respectively, a new subsection (3) is added to that section, and paragraph (c) of subsection (2) of that section is amended, to read:

403.088 Water pollution operation permits; conditions.—

(2)

(c) A permit shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;

2. Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the department;

3. Require a deliberate, proactive approach to investigating or surveying a significant percentage of the domestic wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner. The permittee shall submit an annual report to the department which details facility revenues and expenditures in a manner prescribed by department rule. The report must detail any deviation of annual expenditures from identified system needs related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement required under s. 403.086(7). Substantial compliance with this

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subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141;

4. Contain such additional conditions, requirements, and restrictions as the department deems necessary to preserve and protect the quality of the receiving waters;

5.~~4.~~ Be valid for the period of time specified therein; and

6.~~5.~~ Constitute the state National Pollutant Discharge Elimination System permit when issued pursuant to the authority in s. 403.0885.

(3) No later than March 1 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which identifies all domestic wastewater treatment facilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility or responsible operating entity name, permitted capacity in annual average gallons per day, number of overflows, type of water discharged, and total volume of sewage released, and, to the extent known and available, volume of sewage recovered, volume of sewage discharged to surface waters, and cause of the sanitary sewer overflow, including whether caused by a third party. The department shall include with this report the annual report specified under subparagraph (2)(c)3. for each utility that experienced an overflow.

Section 20. Subsection (6) of section 403.0891, Florida Statutes, is amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility

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for the development of mutually compatible stormwater management programs.

(6) The department and the Department of Economic Opportunity, in cooperation with local governments in the coastal zone, shall develop a model stormwater management program that could be adopted by local governments. The model program must contain model ordinances that target nutrient reduction practices and use green infrastructure. The model program shall contain dedicated funding options, including a stormwater utility fee system based upon an equitable unit cost approach. Funding options shall be designed to generate capital to retrofit existing stormwater management systems, build new treatment systems, operate facilities, and maintain and service debt.

Section 21. Paragraphs (b) and (g) of subsection (2), paragraph (b) of subsection (3), and subsection (9) of section 403.121, Florida Statutes, are amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(2) Administrative remedies:

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties

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that do not exceed $50,000 ~~$10,000~~ per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than $1,000 per day per violation. The department shall not impose administrative penalties in excess of $50,000 ~~$10,000~~ in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(g) Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. Nothing in this subsection shall limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $50,000 ~~$10,000~~ for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of $50,000 ~~$10,000~~. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue

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injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $50,000 ~~$10,000~~ in penalties may be settled in the court action for less than $50,000 ~~$10,000~~.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $2,000 ~~$1,000~~. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of $4,000 ~~$2,000~~ for an unpermitted or unauthorized discharge or effluent-limitation exceedance or failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $10,000 ~~$5,000~~.

(9) The administrative penalties assessed for any particular violation shall not exceed $10,000 ~~$5,000~~ against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds $10,000 ~~$5,000~~, or there are

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multiday violations. The total administrative penalties shall not exceed $50,000 ~~$10,000~~ per assessment for all violations attributable to a specific person in the notice of violation.

Section 22. Subsection (7) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

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(f) Promote reclaimed water reuse;

(g) Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or

(h) Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

(i) Implement the requirements of s. 403.086(7) or s. 403.088(2)(c).

(j) Promote efficiency by planning for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 23. Paragraph (b) of subsection (3) of section 403.1838, Florida Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(3)

(b) The rules of the Environmental Regulation Commission must:

1. Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.

2. Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.

3. Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.

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4. Establish a system to determine eligibility of grant applications.

5. Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution prevention or abatement and must prioritize projects that plan for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

6. Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.

7. Provide for termination of grants when program requirements are not met.

Section 24. Subsection (9) is added to section 403.412, Florida Statutes, to read:

403.412 Environmental Protection Act.—

(9)(a) A local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law may not recognize or grant any legal rights to a plant, an animal, a body of water, or any other part of the natural environment that is not a person or political subdivision as defined in s. 1.01 or grant such person or political subdivision any specific rights relating to the natural environment not otherwise authorized in general law or specifically granted in the State Constitution.

(b) This subsection does not limit the power of an adversely affected party to challenge the consistency of a development order with a comprehensive plan as provided in s. 163.3215 or to file an action for injunctive relief to enforce


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the terms of a development agreement or challenge compliance of the agreement as provided in s. 163.3243.

(c) This subsection does not limit the standing of the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state to maintain an action for injunctive relief as provided in this section.

Section 25. The Legislature determines and declares that this act fulfills an important state interest.

Section 26. Effective July 1, 2021, subsection (5) of section 153.54, Florida Statutes, is amended to read:

153.54 Preliminary report by county commissioners with respect to creation of proposed district.—Upon receipt of a petition duly signed by not less than 25 qualified electors who are also freeholders residing within an area proposed to be incorporated into a water and sewer district pursuant to this law and describing in general terms the proposed boundaries of such proposed district, the board of county commissioners if it shall deem it necessary and advisable to create and establish such proposed district for the purpose of constructing, establishing or acquiring a water system or a sewer system or both in and for such district (herein called "improvements"), shall first cause a preliminary report to be made which such report together with any other relevant or pertinent matters, shall include at least the following:

(5) For the construction of a new proposed central sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage

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treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Such report shall be filed in the office of the clerk of the circuit court and shall be open for the inspection of any taxpayer, property owner, qualified elector or any other interested or affected person.

Section 27. Effective July 1, 2021, paragraph (c) of subsection (2) of section 153.73, Florida Statutes, is amended to read:

153.73 Assessable improvements; levy and payment of special assessments.—Any district may provide for the construction or reconstruction of assessable improvements as defined in s. 153.52, and for the levying of special assessments upon benefited property for the payment thereof, under ~~the provisions of~~ this section.

(2)

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(c) For the construction of a new proposed central sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Section 28. Effective July 1, 2021, subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with

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the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Environmental Protection ~~Health~~ to serve new development.

Section 29. Effective July 1, 2021, subsection (3) of section 180.03, Florida Statutes, is amended to read:

180.03 Resolution or ordinance proposing construction or extension of utility; objections to same.—

(3) For the construction of a new proposed central sewerage system or the extension of an existing central sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed central sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d)

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of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority. The results of such a study shall be included in the resolution or ordinance required under subsection (1).

Section 30. Subsections (2), (3), and (6) of section 311.105, Florida Statutes, are amended to read:

311.105 Florida Seaport Environmental Management Committee; permitting; mitigation.—

(2) Each application for a permit authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ must include:

(a) A description of maintenance dredging activities to be conducted and proposed methods of dredged-material management.

(b) A characterization of the materials to be dredged and the materials within dredged-material management sites.

(c) A description of dredged-material management sites and plans.

(d) A description of measures to be undertaken, including environmental compliance monitoring, to minimize adverse environmental effects of maintenance dredging and dredged-material management.

(e) Such scheduling information as is required to facilitate state supplementary funding of federal maintenance dredging and dredged-material management programs consistent with beach restoration criteria of the Department of Environmental Protection.

(3) Each application for a permit authorized pursuant to s. 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~ paragraphs (2)(b)-(e) and the following:

(a) A description of dredging and dredged-material


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management and other related activities associated with port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(b) A discussion of environmental mitigation as is proposed for dredging and dredged-material management for port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(6) Dredged-material management activities authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~ shall be incorporated into port master plans developed pursuant to s. 163.3178(2)(k).

Section 31. Paragraph (d) of subsection (1) of section 327.46, Florida Statutes, is amended to read:

327.46 Boating-restricted areas.—

(1) Boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.

(d) Owners of private submerged lands that are adjacent to Outstanding Florida Waters, as defined in s. 403.061(28) ~~s. 403.061(27)~~, or an aquatic preserve established under ss. 258.39-258.399 may request that the commission establish boating-restricted areas solely to protect any seagrass and

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contiguous seagrass habitat within their private property boundaries from seagrass scarring due to propeller dredging. Owners making a request pursuant to this paragraph must demonstrate to the commission clear ownership of the submerged lands. The commission shall adopt rules to implement this paragraph, including, but not limited to, establishing an application process and criteria for meeting the requirements of this paragraph. Each approved boating-restricted area shall be established by commission rule. For marking boating-restricted zones established pursuant to this paragraph, owners of privately submerged lands shall apply to the commission for a uniform waterway marker permit in accordance with ss. 327.40 and 327.41, and shall be responsible for marking the boating-restricted zone in accordance with the terms of the permit.

Section 32. Paragraph (d) of subsection (3) of section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(3)

(d) The South Florida Water Management District shall require the use of reclaimed water made available by the elimination of wastewater ocean outfall discharges as provided for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or groundwater when the use of reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user. Such reclaimed water may also be required in lieu of other alternative sources. In determining whether to require such reclaimed water in lieu of other alternative sources, the water management district shall consider existing infrastructure

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investments in place or obligated to be constructed by an executed contract or similar binding agreement as of July 1, 2011, for the development of other alternative sources.

Section 33. Subsection (9) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(9) The department and the governing boards, on or before July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~ this section, relying primarily on the existing rules of the department and the water management districts, into the rules governing the management and storage of surface waters. Such rules shall seek to achieve a statewide, coordinated and consistent permitting approach to activities regulated under this part. Variations in permitting criteria in the rules of individual water management districts or the department shall only be provided to address differing physical or natural characteristics. Such rules adopted pursuant to this subsection shall include the special criteria adopted pursuant to s. 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules shall include a provision requiring that a notice of intent to deny or a permit denial based upon this section shall contain an explanation of the reasons for such denial and an explanation, in general terms, of what changes, if any, are necessary to address such reasons for denial. Such rules may establish exemptions and general permits, if such exemptions and general permits do not allow significant adverse impacts to occur individually or cumulatively. Such rules may require submission

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of proof of financial responsibility which may include the posting of a bond or other form of surety prior to the commencement of construction to provide reasonable assurance that any activity permitted pursuant to this section, including any mitigation for such permitted activity, will be completed in accordance with the terms and conditions of the permit once the construction is commenced. Until rules adopted pursuant to this subsection become effective, existing rules adopted under this part and rules adopted pursuant to the authority of ss. 403.91-403.929 shall be deemed authorized under this part and shall remain in full force and effect. Neither the department nor the governing boards are limited or prohibited from amending any such rules.

Section 34. Paragraph (b) of subsection (4) of section 373.705, Florida Statutes, is amended to read:

373.705 Water resource development; water supply development.—

(4)

(b) Water supply development projects that meet the criteria in paragraph (a) and that meet one or more of the following additional criteria shall be given first consideration for state or water management district funding assistance:

1. The project brings about replacement of existing sources in order to help implement a minimum flow or minimum water level;

2. The project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~; or

3. The project reduces or eliminates the adverse effects of

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competition between legal users and the natural system.

Section 35. Paragraph (f) of subsection (8) of section 373.707, Florida Statutes, is amended to read:

373.707 Alternative water supply development.—

(8)

(f) The governing boards shall determine those projects that will be selected for financial assistance. The governing boards may establish factors to determine project funding; however, significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water is a major component.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

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8. Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~.

9. Whether the county or municipality, or the multiple counties or municipalities, in which the project is located has implemented a high-water recharge protection tax assessment program as provided in s. 193.625.

Section 36. Subsection (4) of section 373.709, Florida Statutes, is amended to read:

373.709 Regional water supply planning.—

(4) The South Florida Water Management District shall include in its regional water supply plan water resource and water supply development projects that promote the elimination of wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~.

Section 37. Effective July 1, 2021, subsection (3) of section 373.807, Florida Statutes, is amended to read:

373.807 Protection of water quality in Outstanding Florida Springs.—By July 1, 2016, the department shall initiate assessment, pursuant to s. 403.067(3), of Outstanding Florida Springs or spring systems for which an impairment determination has not been made under the numeric nutrient standards in effect for spring vents. Assessments must be completed by July 1, 2018.

(3) As part of a basin management action plan that includes an Outstanding Florida Spring, the department, ~~the Department of Health,~~ relevant local governments, and relevant local public and private wastewater utilities shall develop an onsite sewage treatment and disposal system remediation plan for a spring if the department determines onsite sewage treatment and disposal

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systems within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve the total maximum daily load. The plan shall identify cost-effective and financially feasible projects necessary to reduce the nutrient impacts from onsite sewage treatment and disposal systems and shall be completed and adopted as part of the basin management action plan no later than the first 5-year milestone required by subparagraph (1)(b)8. The department is the lead agency in coordinating the preparation of and the adoption of the plan. The department shall:

(a) Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems; and

(b) Develop a public education plan to provide area residents with reliable, understandable information about onsite sewage treatment and disposal systems and springs.

In addition to the requirements in s. 403.067, the plan shall include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for an onsite sewage treatment and disposal system or group of systems within a priority focus area that contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve a total maximum daily load. For these systems, the department shall include in the plan a priority ranking for each system or group of systems that requires remediation and shall award funds to implement the

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remediation projects contingent on an appropriation in the General Appropriations Act, which may include all or part of the costs necessary for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, initial connection to a central sewerage system, or other action. In awarding funds, the department may consider expected nutrient reduction benefit per unit cost, size and scope of project, relative local financial contribution to the project, and the financial impact on property owners and the community. The department may waive matching funding requirements for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

Section 38. Paragraph (k) of subsection (1) of section 376.307, Florida Statutes, is amended to read:

376.307 Water Quality Assurance Trust Fund.—

(1) The Water Quality Assurance Trust Fund is intended to serve as a broad-based fund for use in responding to incidents of contamination that pose a serious danger to the quality of groundwater and surface water resources or otherwise pose a serious danger to the public health, safety, or welfare. Moneys in this fund may be used:

(k) For funding activities described in s. 403.086(10) ~~s. 403.086(9)~~ which are authorized for implementation under the Leah Schad Memorial Ocean Outfall Program.

Section 39. Paragraph (i) of subsection (2), paragraph (b) of subsection (4), paragraph (j) of subsection (7), and paragraph (a) of subsection (9) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as


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area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(11) ~~403.086(10)~~, as applicable.

(4) REMOVAL OF DESIGNATION.—

(b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:

1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(l);

2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

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3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and s. 403.086(11) ~~403.086(10)~~, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency


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shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.

Section 40. Effective July 1, 2021, subsections (7) and (18) of section 381.006, Florida Statutes, are amended to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state’s public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall

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include, but not be limited to:

~~(7) An onsite sewage treatment and disposal function.~~

(17)~~(18)~~ A food service inspection function for domestic violence centers that are certified by the Department of Children and Families and monitored by the Florida Coalition Against Domestic Violence under part XII of chapter 39 and group care homes as described in subsection (15) ~~(16)~~, which shall be conducted annually and be limited to the requirements in department rule applicable to community-based residential facilities with five or fewer residents.

The department may adopt rules to carry out the provisions of this section.

Section 41. Effective July 1, 2021, subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may ~~shall~~ not exceed $500 for each violation, for a violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of ~~any of the provisions of~~ chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 42. Effective July 1, 2021, subsection (1) of section 381.0064, Florida Statutes, is amended to read:

381.0064 Continuing education courses for persons


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installing or servicing septic tanks.—

(1) The Department of Environmental Protection ~~Health~~ shall establish a program for continuing education which meets the purposes of ss. 381.0101 and 489.554 regarding the public health and environmental effects of onsite sewage treatment and disposal systems and any other matters the department determines desirable for the safe installation and use of onsite sewage treatment and disposal systems. The department may charge a fee to cover the cost of such program.

Section 43. Effective July 1, 2021, paragraph (d) of subsection (7), subsection (8), and paragraphs (b), (c), and (d) of subsection (9) of section 381.00651, Florida Statutes, are amended to read:

381.00651 Periodic evaluation and assessment of onsite sewage treatment and disposal systems.—

(7) The following procedures shall be used for conducting evaluations:

(d) *Assessment procedure.*—All evaluation procedures used by a qualified contractor shall be documented in the environmental health database of the Department of Environmental Protection ~~Health~~. The qualified contractor shall provide a copy of a written, signed evaluation report to the property owner upon completion of the evaluation and to the county health department within 30 days after the evaluation. The report must ~~shall~~ contain the name and license number of the company providing the report. A copy of the evaluation report shall be retained by the local county health department for a minimum of 5 years and until a subsequent inspection report is filed. The front cover of the report must identify any system failure and include a

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clear and conspicuous notice to the owner that the owner has a right to have any remediation of the failure performed by a qualified contractor other than the contractor performing the evaluation. The report must further identify any crack, leak, improper fit, or other defect in the tank, manhole, or lid, and any other damaged or missing component; any sewage or effluent visible on the ground or discharging to a ditch or other surface water body; any downspout, stormwater, or other source of water directed onto or toward the system; and any other maintenance need or condition of the system at the time of the evaluation which, in the opinion of the qualified contractor, would possibly interfere with or restrict any future repair or modification to the existing system. The report shall conclude with an overall assessment of the fundamental operational condition of the system.

(8) The county health department, in coordination with the department, shall administer any evaluation program on behalf of a county, or a municipality within the county, that has adopted an evaluation program pursuant to this section. In order to administer the evaluation program, the county or municipality, in consultation with the county health department, may develop a reasonable fee schedule to be used solely to pay for the costs of administering the evaluation program. Such a fee schedule shall be identified in the ordinance that adopts the evaluation program. When arriving at a reasonable fee schedule, the estimated annual revenues to be derived from fees may not exceed reasonable estimated annual costs of the program. Fees shall be assessed to the system owner during an inspection and separately identified on the invoice of the qualified contractor. Fees

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shall be remitted by the qualified contractor to the county health department. The county health department's administrative responsibilities include the following:

(a) Providing a notice to the system owner at least 60 days before the system is due for an evaluation. The notice may include information on the proper maintenance of onsite sewage treatment and disposal systems.

(b) In consultation with the department ~~of Health~~, providing uniform disciplinary procedures and penalties for qualified contractors who do not comply with the requirements of the adopted ordinance, including, but not limited to, failure to provide the evaluation report as required in this subsection to the system owner and the county health department. Only the county health department may assess penalties against system owners for failure to comply with the adopted ordinance, consistent with existing requirements of law.

(9)

(b) Upon receipt of the notice under paragraph (a), the department ~~of Environmental Protection~~ shall, within existing resources, notify the county or municipality of the potential use of, and access to, program funds under the Clean Water State Revolving Fund or s. 319 of the Clean Water Act, provide guidance in the application process to receive such moneys, and provide advice and technical assistance to the county or municipality on how to establish a low-interest revolving loan program or how to model a revolving loan program after the low-interest loan program of the Clean Water State Revolving Fund. This paragraph does not obligate the department ~~of Environmental Protection~~ to provide any county or municipality with money to

fund such programs.

(c) The department ~~of Health~~ may not adopt any rule that alters ~~the provisions of~~ this section.

(d) The department ~~of Health~~ must allow county health departments and qualified contractors access to the environmental health database to track relevant information and assimilate data from assessment and evaluation reports of the overall condition of onsite sewage treatment and disposal systems. The environmental health database must be used by contractors to report each service and evaluation event and by a county health department to notify owners of onsite sewage treatment and disposal systems when evaluations are due. Data and information must be recorded and updated as service and evaluations are conducted and reported.

Section 44. Effective July 1, 2021, paragraph (g) of subsection (1) of section 381.0101, Florida Statutes, is amended to read:

381.0101 Environmental health professionals.—

(1) DEFINITIONS.—As used in this section:

(g) "Primary environmental health program" means those programs determined by the department to be essential for providing basic environmental and sanitary protection to the public. At a minimum, these programs shall include food protection program work ~~and onsite sewage treatment and disposal system evaluations~~.

Section 45. Section 403.08601, Florida Statutes, is amended to read:

403.08601 Leah Schad Memorial Ocean Outfall Program.—The Legislature declares that as funds become available the state

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may assist the local governments and agencies responsible for implementing the Leah Schad Memorial Ocean Outfall Program pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from other sources provided for in law, the General Appropriations Act, from gifts designated for implementation of the plan from individuals, corporations, or other entities, or federal funds appropriated by Congress for implementation of the plan, may be deposited into an account of the Water Quality Assurance Trust Fund.

Section 46. Section 403.0871, Florida Statutes, is amended to read:

403.0871 Florida Permit Fee Trust Fund.—There is established within the department a nonlapsing trust fund to be known as the "Florida Permit Fee Trust Fund." All funds received from applicants for permits pursuant to ss. 161.041, 161.053, 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter and chapter 161. In no case shall funds from the Florida Permit Fee Trust Fund be used for salary increases without the approval of the Legislature.

Section 47. Paragraph (a) of subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning

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January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with ~~the provisions of~~ this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay between January 15 and April 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with the department's emissions

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computation and reporting rules. The annual fee shall only apply to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit; provided, however, that:

1. The license fee factor is $25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35.

2. The amount of each regulated air pollutant in excess of 4,000 tons per year emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3. If the department has not received the fee by March 1 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If

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the fee is not postmarked by April 1 of the calendar year, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and may ~~shall~~ not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section may ~~shall~~ not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 may ~~shall~~ not exceed $50 per year.

5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be

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considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873. The department shall, however, require fees pursuant to s. 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

Section 48. Paragraph (d) of subsection (3) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(3)

(d) The department may adopt rules to administer this subsection. However, the department is not required to submit such rules to the Environmental Regulation Commission for approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s. 403.087(6)(a)~~, permit fee caps for solid waste management facilities shall be prorated to reflect the extended permit term authorized by this subsection.

Section 49. Subsections (8) and (21) of section 403.861, Florida Statutes, are amended to read:

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(8) Initiate rulemaking to increase each drinking water permit application fee authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part and adopted by rule to ensure that such fees are increased to reflect, at a minimum, any upward

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adjustment in the Consumer Price Index compiled by the United States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised.

(a) The department shall establish by rule the inflation index to be used for this purpose. The department shall review the drinking water permit application fees authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5 years and shall adjust the fees upward, as necessary, within the established fee caps to reflect changes in the Consumer Price Index or similar inflation indicator. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. The department shall also review the drinking water operation license fees established pursuant to paragraph (7)(b) at least once every 5 years to adopt, as necessary, the same inflationary adjustments provided for in this subsection.

(b) The minimum fee amount shall be the minimum fee prescribed in this section, and such fee amount shall remain in effect until the effective date of fees adopted by rule by the department.

(21)(a) Upon issuance of a construction permit to construct a new public water system drinking water treatment facility to provide potable water supply using a surface water that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the

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surface water segment in accordance with s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.

(b) For existing public water system drinking water treatment facilities that use a surface water as a treated potable water supply, which surface water classification does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.

Section 50. Effective July 1, 2021, subsection (1) of section 489.551, Florida Statutes, is amended to read:

489.551 Definitions.—As used in this part:

(1) "Department" means the Department of Environmental Protection ~~Health~~.

Section 51. Paragraph (b) of subsection (10) of section 590.02, Florida Statutes, is amended to read:

590.02 Florida Forest Service; powers, authority, and duties; liability; building structures; Withlacoochee Training Center.—

(10)

(b) The Florida Forest Service may delegate to a county, municipality, or special district its authority:

1. As delegated by the Department of Environmental Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and 403.081, to manage and enforce regulations pertaining to the burning of yard trash in accordance with s. 590.125(6).

2. To manage the open burning of land clearing debris in accordance with s. 590.125.

Section 52. The Division of Law Revision is directed to

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replace the phrase "before the rules identified in paragraph (e) take effect" as it is used in the amendment made by this act to s. 381.0065, Florida Statutes, with the date such rules are adopted, as provided by the Department of Environmental Protection pursuant to s. 381.0065(4)(f), Florida Statutes, as amended by this act.

Section 53. Except as otherwise expressly provided in this act, 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 environmental resource management; providing a short title; requiring the Department of Health to provide a specified report to the Governor and the Legislature by a specified date; requiring the Department of Health and the Department of Environmental Protection to submit to the Governor and the Legislature, by a specified date, certain recommendations relating to the transfer of the Onsite Sewage Program; requiring the departments to enter into an interagency agreement that meets certain requirements by a specified date; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection by a type two transfer by a specified date; providing that certain employees retain and transfer certain types of

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leave upon the transfer; amending s. 20.255, F.S.; reducing the number of members of the Cabinet required concur with the Governor's appointment of the Secretary of Environmental Protection; amending s. 373.036, F.S.; requiring water management districts to submit consolidated annual reports to the Office of Economic and Demographic Research; requiring such reports to include connection and conversion projects for onsite sewage treatment and disposal systems; amending s. 373.223, F.S.; requiring a consumptive use permit to use water derived from a spring for bottled water to meet certain requirements before approval; providing for the expiration of such requirements; requiring the Department of Environmental Protection, in coordination with the water management districts, to conduct a study on the bottled water industry in this state; providing requirements for the study; requiring the department to submit a report containing the findings of the study to the Governor, the Legislature, and the Office of Economic and Demographic Research by a specified date; defining the terms "bottled water" and "water derived from a spring"; amending s. 373.4131, F.S.; requiring the Department of Environmental Protection to include stormwater structural control inspections as part of its regular staff training; requiring the department and the water management districts to adopt rules regarding stormwater design and operation by a specified date; requiring the department to evaluate

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data relating to self-certification and provide the Legislature with recommendations; amending s. 381.0065, F.S.; conforming provisions to changes made by the act; requiring the department to adopt rules for the location of onsite sewage treatment and disposal systems and complete such rulemaking by a specified date; requiring the department to evaluate certain data relating to the self-certification program and provide the Legislature with recommendations by a specified date; providing that certain provisions relating to existing setback requirements are applicable to permits only until the adoption of certain rules by the department; removing provisions establishing a Department of Health onsite sewage treatment and disposal system research review and advisory committee; requiring the department to implement a specified approval process for the use of nutrient reducing onsite sewage treatment and disposal systems standards; creating s. 381.00652, F.S.; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; providing the duties and membership of the committee; requiring the committee to submit recommendations to the Governor and the Legislature by a specified date; providing for the expiration of the committee; defining a term; repealing s. 381.0068, F.S., relating to a technical review and advisory panel; amending s. 403.061, F.S.; requiring the department to adopt rules relating to the underground

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pipes of wastewater collection systems; requiring public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file certain reports and data with the department; creating s. 403.0616, F.S.; requiring the department, subject to legislative appropriation, to establish a real-time water quality monitoring program; encouraging the formation of public-private partnerships; amending s. 403.067, F.S.; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system remediation plans that meet certain requirements; requiring the Department of Agriculture and Consumer Services to collect fertilization and nutrient records from certain agricultural producers and provide the information to the department annually by a specified date; requiring the Department of Agriculture and Consumer Services to perform onsite inspections of the agricultural producers at specified intervals; providing an additional management strategy for basin management action plans to include cooperative agricultural regional water quality improvement elements; providing requirements for the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and owners of agricultural operations in developing and implementing such elements; requiring certain entities to develop research plans and legislative budget requests

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relating to best management practices by a specified date; creating s. 403.0671, F.S.; directing the Department of Environmental Protection, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, to submit a report on the costs of certain wastewater projects to the Governor and Legislature by a specified date; providing requirements for such report; requiring the department to submit a specified water quality monitoring assessment report to the Governor and the Legislature by a specified date; providing requirements for such report; requiring the department to annually submit certain wastewater project cost estimates to the Office of Economic and Demographic Research beginning on a specified date; creating s. 403.0673, F.S.; establishing a wastewater grant program within the Department of Environmental Protection; authorizing the department to distribute appropriated funds for certain projects; providing requirements for the distribution; requiring the department to coordinate with each water management district to identify grant recipients; requiring an annual report to the Governor and the Legislature by a specified date; creating s. 403.0855, F.S.; providing legislative findings regarding the regulation of biosolids management in this state; requiring the Department of Environmental Protection to adopt rules for biosolids management; specifying requirements for certain existing permits

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and for permit renewals; requiring the permittee of a biosolids application site to establish a groundwater monitoring program under certain circumstances; prohibiting the land application of biosolids within a specified distance of the seasonal high-water table; defining the term "seasonal high water"; authorizing municipalities and counties to take certain actions with respect to regulation of the land application of specified biosolids; providing for a contingent repeal; amending s. 403.086, F.S.; prohibiting facilities for sanitary sewage disposal from disposing of any waste in the Indian River Lagoon beginning on a specified date without first providing advanced waste treatment; requiring the Department of Environmental Protection, in consultation with water management districts and sewage disposal facilities, to submit a report to the Governor and the Legislature on the status of certain facility upgrades; specifying requirements for the report; requiring facilities for sanitary sewage disposal to have a power outage contingency plan; requiring the facilities to take steps to prevent overflows and leaks and ensure that the water reaches the appropriate facility for treatment; requiring the facilities to provide the Department of Environmental Protection with certain information; requiring the department to adopt rules; amending s. 403.087, F.S.; requiring the department to issue operation permits for domestic wastewater treatment facilities to certain facilities under


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certain circumstances; amending s. 403.088, F.S.; revising the permit conditions for a water pollution operation permit; requiring the department to submit a report to the Governor and the Legislature by a specified date identifying all wastewater utilities that experienced sanitary sewer overflows within a specified timeframe; providing requirements for the report; amending s. 403.0891, F.S.; requiring model stormwater management programs to contain model ordinances for nutrient reduction practices and green infrastructure; amending s. 403.121, F.S.; increasing and providing administrative penalties; amending s. 403.1835, F.S.; conforming a cross-reference; requiring the department to give priority for water pollution control financial assistance to projects that implement certain provisions and that promote efficiency; amending s. 403.1838, F.S.; revising requirements for the prioritization of grant applications within the Small Community Sewer Construction Assistance Act; amending s. 403.412, F.S.; prohibiting local governments from recognizing or granting certain legal rights to the natural environment or granting such rights relating to the natural environment to a person or political subdivision; providing construction; providing a declaration of important state interest; amending ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.705, 373.707, 373.709, 373.807, 376.307, 380.0552, 381.006, 381.0061, 381.0064,

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381.00651, 381.0101, 403.08601, 403.0871, 403.0872, 403.707, 403.861, 489.551, and 590.02, F.S.; conforming cross-references and provisions to changes made by the act; providing a directive to the Division of Law Revision upon the adoption of certain rules by the Department of Environmental Protection; providing effective dates.

WHEREAS, nutrients negatively impact groundwater and surface waters in this state and cause the proliferation of algal blooms, and

WHEREAS, onsite sewage treatment and disposal systems were designed to manage human waste and are permitted by the Department of Health for that purpose, and

WHEREAS, conventional onsite sewage treatment and disposal systems contribute nutrients to groundwater and surface waters across this state which can cause harmful blue-green algal blooms, and

WHEREAS, many stormwater systems are designed primarily to divert and control stormwater rather than to remove pollutants, and

WHEREAS, most existing stormwater system design criteria fail to consistently meet either the 80 percent or 95 percent target pollutant reduction goals established by the Department of Environmental Protection, and

WHEREAS, other significant pollutants often can be removed from stormwater more easily than nutrients and, as a result, design criteria that provide the desired removal efficiencies for nutrients will likely achieve equal or better removal

efficiencies for other constituents, and

WHEREAS, the Department of Environmental Protection has found that the major causes of sanitary sewer overflows during storm events are infiltration, inflow, and acute power failures, and

WHEREAS, the Department of Environmental Protection lacks statutory authority to regulate infiltration and inflow or to require that all lift stations constructed prior to 2003 have emergency backup power, and

WHEREAS, sanitary sewer overflows and leaking infrastructure create both a human health concern and a nutrient pollution problem, and

WHEREAS, the agricultural sector is a significant contributor to the excess delivery of nutrients to surface waters throughout this state and has been identified as the dominant source of both phosphorus and nitrogen within the Lake Okeechobee watershed and a number of other basin management action plan areas, and

WHEREAS, only 75 percent of eligible agricultural parties within the Lake Okeechobee Basin Management Action Plan area are enrolled in an appropriate best management practice and enrollment numbers are considerably less in other basin management action plan areas, and

WHEREAS, although agricultural best management practices, by design, should be technically feasible and economically viable, that does not imply that their adoption and full implementation, alone, will alleviate downstream water quality impairments, NOW, THEREFORE,

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete lines 256 - 2003
and insert:
Section 3. Section 327.62, Florida Statutes, is created to read:
327.62 No-Discharge Zone.—
(1) The Legislature finds that the protection and enhancement of water quality in this state requires greater environmental protection than federal standards provide. The

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Legislature further finds that a prohibition against discharges from vessels into the waters of the state would assist in protecting and enhancing the waters of this state.

(2) The Department of Environmental Protection, in coordination with the commission, shall apply to the Administrator of the United States Environmental Protection Agency to establish no-discharge zones wherever adequate pumpout facilities are available with the ultimate goal of making all of the waterbodies of this state no-discharge zones pursuant to 40 C.F.R. s. 1700.10.

(3) By January 2, 2021, and every 2 years thereafter, the Department of Environmental Protection shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status and effectiveness of the no-discharge zone designation. The Department of Environmental Protection shall identify in the report any specific impediments that prevent the entire state from achieving a no-discharge zone designation.

Section 4. Paragraphs (a) and (b) of subsection (7) of section 373.036, Florida Statutes, are amended to read:

373.036 Florida water plan; district water management plans.—

(7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

(a) By March 1, annually, each water management district shall prepare and submit to the Office of Economic and Demographic Research, the department, the Governor, the President of the Senate, and the Speaker of the House of Representatives a consolidated water management district annual report on the management of water resources. In addition, copies

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must be provided by the water management districts to the chairs of all legislative committees having substantive or fiscal jurisdiction over the districts and the governing board of each county in the district having jurisdiction or deriving any funds for operations of the district. Copies of the consolidated annual report must be made available to the public, either in printed or electronic format.

(b) The consolidated annual report shall contain the following elements, as appropriate to that water management district:

1. A district water management plan annual report or the annual work plan report allowed in subparagraph (2)(e)4.

2. The department-approved minimum flows and minimum water levels annual priority list and schedule required by s. 373.042(3).

3. The annual 5-year capital improvements plan required by s. 373.536(6)(a)3.

4. The alternative water supplies annual report required by s. 373.707(8)(n).

5. The final annual 5-year water resource development work program required by s. 373.536(6)(a)4.

6. The Florida Forever Water Management District Work Plan annual report required by s. 373.199(7).

7. The mitigation donation annual report required by s. 373.414(1)(b)2.

8. Information on all projects related to water quality or water quantity as part of a 5-year work program, including:

a. A list of all specific projects identified to implement a basin management action plan, including any projects to

connect onsite sewage treatment and disposal systems to central sewerage systems and convert onsite sewage treatment and disposal systems to advanced nutrient removing onsite sewage treatment and disposal systems, or a recovery or prevention strategy;

b. A priority ranking for each listed project for which state funding through the water resources development work program is requested, which must be made available to the public for comment at least 30 days before submission of the consolidated annual report;

c. The estimated cost for each listed project;

d. The estimated completion date for each listed project;

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project; and

f. A quantitative estimate of each listed project's benefit to the watershed, water body, or water segment in which it is located.

9. A grade for each watershed, water body, or water segment in which a project listed under subparagraph 8. is located representing the level of impairment and violations of adopted minimum flow or minimum water levels. The grading system must reflect the severity of the impairment of the watershed, water body, or water segment.

Section 5. Paragraph (a) of subsection (3) and subsection (5) of section 373.4131, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

373.4131 Statewide environmental resource permitting rules.—


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(3)(a) The water management districts, with department oversight, shall ~~may continue to~~ adopt rules governing design and performance standards for stormwater quality and quantity, including design and performance standards that increase the removal of nutrients from stormwater discharges. ~~and~~ The department shall ~~may~~ incorporate the design and performance standards by reference for use within the geographic jurisdiction of each district to ensure that additional pollutant loadings are not discharged into impaired water bodies. By January 1, 2021, the department and water management districts shall amend the Environmental Resource Permit Applicant's Handbook to include revised best management practices design criteria and low-impact design best management practices and design criteria that increase the removal of nutrients from stormwater discharges, and measures for consistent application of the net improvement performance standard to ensure that additional pollutant loadings are not discharged into impaired water bodies. The level of nutrient treatment and the design criteria for stormwater best management practices must be consistent with best available scientific information.

(5) To ensure consistent implementation and interpretation of the rules adopted pursuant to this section, the department shall conduct or oversee regular assessment and training of its staff and the staffs of the water management districts and local governments delegated local pollution control program authority under s. 373.441. The training must include coordinating field inspections of publicly and privately owned stormwater structural controls, such as stormwater retention or detention


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ponds.

(6) By January 1, 2021, the department shall evaluate inspection data relating to compliance by those entities that self-certify under s. 403.814(12) and shall provide the Legislature with recommendations for improvements to the self-certification program.

Section 6. Effective July 1, 2021, present paragraphs (d) through (q) of subsection (2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (e) through (r), respectively, a new paragraph (d) is added to that subsection, and subsections (3) and (4) of that section are amended, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the term:

(d) "Department" means the Department of Environmental Protection.

(3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The department shall:

(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, ~~decreases to setback requirements where no health hazard exists,~~ increases for the lot-flow allowance for performance-based systems, requirements for separation from water table elevation during the wettest season, requirements for the design and construction of any component part of an onsite sewage treatment and disposal system, application and permit requirements for persons who maintain an onsite sewage

treatment and disposal system, requirements for maintenance and service agreements for aerobic treatment units and performance-based treatment systems, and recommended standards, including disclosure requirements, for voluntary system inspections to be performed by individuals who are authorized by law to perform such inspections and who shall inform a person having ownership, control, or use of an onsite sewage treatment and disposal system of the inspection standards and of that person's authority to request an inspection based on all or part of the standards.

(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an onsite sewage treatment and disposal system for a residence or establishment with an estimated domestic sewage flow of 10,000 gallons or less per day, or an estimated commercial sewage flow of 5,000 gallons or less per day, which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, sited, repaired, modified, abandoned, used, operated, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination, including impacts from nutrient pollution, and surface water contamination and to preserve the public health. The department is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule


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interpretation, the secretary of the department ~~State Surgeon General~~, or his or her designee, shall timely assign a staff person to resolve the dispute.

(d) Grant variances in hardship cases under the conditions prescribed in this section and rules adopted under this section.

(e) Permit the use of a limited number of innovative systems for a specific period of time, when there is compelling evidence that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.

(f) Issue annual operating permits under this section.

(g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.

(h) Conduct enforcement activities, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted under this section, part I of chapter 386, or part III of chapter 489.

(i) Provide or conduct education and training of department personnel, service providers, and the public regarding onsite sewage treatment and disposal systems.

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment


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and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects may ~~shall~~ not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee.

(k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.

(l) Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any system regulated under this chapter and not regulated by the Department of Environmental Protection.

(m) Permit and inspect portable or temporary toilet services and holding tanks. The department shall review applications, perform site evaluations, and issue permits for the temporary use of holding tanks, privies, portable toilet services, or any other toilet facility that is intended for use

on a permanent or nonpermanent basis, including facilities placed on construction sites when workers are present. The department may specify standards for the construction, maintenance, use, and operation of any such facility for temporary use.

(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer's specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include: training, access to approved spare parts and components, access to manufacturer's maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section.~~, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that~~ The issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department ~~of Environmental Protection~~. A construction permit is valid for 18 months from the issuance date and may be extended

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by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained before ~~prior to~~ the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that

residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as

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defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department ~~of Health~~, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) The department shall adopt rules to locate onsite

sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process for such rules must be completed by July 1, 2022, and the department shall notify the Division of Law Revision of the date such rules are adopted. The rules must consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to s. 381.00652.

(f) ~~(e)~~ Onsite sewage treatment and disposal systems that are permitted before the rules identified in paragraph (e) take effect may ~~must~~ not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.


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6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

~~(f) Except as provided under paragraphs (e) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.~~

(g) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the

maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than ~~the provisions~~ specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of


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ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance

requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

a. The Secretary of Environmental Protection ~~State Surgeon General~~ or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

e. A representative from the Department of Health ~~Environmental Protection~~.

f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will

receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department may ~~shall~~ not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must

obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the

performance of a system and not a system's design.

2. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under ~~the provisions of~~ chapter 120.

3. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced. The reports may be submitted electronically.

4. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own performance-based treatment system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

5. The property owner shall obtain a biennial system operating permit from the department for each system. The department shall inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with ~~the provisions of~~ this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a

special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent shall be deemed to be in compliance with

this standard.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. In areas not scheduled to be served by a central sewer, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.


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7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other ~~provision of~~ law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewer system until December 31, 2020.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(k) ~~(2)(j)~~. The department shall accept evaluations submitted by professional engineers and

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such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Secretary of Environmental Protection ~~State Surgeon General~~, or his or her designee.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from local government who is knowledgeable about domestic wastewater treatment.

8. A representative from the real estate profession.

9. A representative from the restaurant industry.

10. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without

remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(p) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(q) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(r) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(s) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering may ~~shall~~ not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(t) Notwithstanding ~~the provisions of~~ subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

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1. The absorption surface of the drainfield may ~~shall~~ not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system ~~approved by the State Health Office~~ that is capable of reducing effluent nitrate by at least 50 percent in accordance with department rules; or a system other than a system using alternative drainfield materials in accordance with department rules ~~approved by the county health department pursuant to department rule other than a system using alternative drainfield materials~~. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.


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2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water may ~~shall~~ not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(u)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. The reports may be submitted electronically.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer’s approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.


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3. A septic tank contractor licensed under part III of chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part's equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(w) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system shall transfer with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or

repaired. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction. This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution (1885).

(x) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(y)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that

881 existed before the disaster;
882 b. The system is not a sanitary nuisance; and
883 c. The system has not been altered without prior
884 authorization.
885 2. An onsite sewage treatment and disposal system that
886 serves a property that is foreclosed upon is not considered
887 abandoned.
888 (z) If an onsite sewage treatment and disposal system
889 permittee receives, relies upon, and undertakes construction of
890 a system based upon a validly issued construction permit under
891 rules applicable at the time of construction but a change to a
892 rule occurs within 5 years after the approval of the system for
893 construction but before the final approval of the system, the
894 rules applicable and in effect at the time of construction
895 approval apply at the time of final approval if fundamental site
896 conditions have not changed between the time of construction
897 approval and final approval.
898 (aa) An existing-system inspection or evaluation and
899 assessment, or a modification, replacement, or upgrade of an
900 onsite sewage treatment and disposal system is not required for
901 a remodeling addition or modification to a single-family home if
902 a bedroom is not added. However, a remodeling addition or
903 modification to a single-family home may not cover any part of
904 the existing system or encroach upon a required setback or the
905 unobstructed area. To determine if a setback or the unobstructed
906 area is impacted, the local health department shall review and
907 verify a floor plan and site plan of the proposed remodeling
908 addition or modification to the home submitted by a remodeler
909 which shows the location of the system, including the distance


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of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

Section 7. Section 381.00652, Florida Statutes, is created to read:

381.00652 Onsite sewage treatment and disposal systems technical advisory committee.—

(1) An onsite sewage treatment and disposal systems technical advisory committee, a committee as defined in s. 20.03(8), is created within the department. The committee shall:

(a) Provide recommendations to increase the availability in the marketplace of enhanced nutrient-reducing onsite sewage treatment and disposal systems, including systems that are cost-effective, low-maintenance, and reliable.

(b) Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of enhanced nutrient-reducing onsite sewage treatment and disposal systems that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the NSF International.

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(c) Provide recommendations for appropriate setback distances for onsite sewage treatment and disposal systems from surface water, groundwater, and wells.

(2) The department shall use existing and available resources to administer and support the activities of the committee.

(3)(a) By August 1, 2021, the department, in consultation with the Department of Health, shall appoint no more than nine members to the committee, including, but not limited to, the following:

1. A professional engineer.

2. A septic tank contractor.

3. A representative from the home building industry.

4. A representative from the real estate industry.

5. A representative from the onsite sewage treatment and disposal system industry.

6. A representative from local government.

7. Two representatives from the environmental community.

8. A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

(b) Members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(4) By January 1, 2022, the committee shall submit its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) This section expires August 15, 2022.

(6) For purposes of this section, the term "department"


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means the Department of Environmental Protection.

Section 8. Effective July 1, 2021, section 381.0068, Florida Statutes, is repealed.

Section 9. Present subsections (14) through (44) of section 403.061, Florida Statutes, are redesignated as subsections (15) through (45), respectively, a new subsection (14) is added to that section, and subsection (7) of that section is amended, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this act. Any rule adopted pursuant to this act must ~~shall~~ be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. A ~~No~~ county, municipality, or political subdivision may not ~~shall~~ adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act may ~~shall~~ not require dischargers of waste into waters of the state to improve natural background conditions. The department shall adopt rules to reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and

inflow and infiltration. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, may ~~shall~~ not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(14) In order to promote resilient utilities, require public utilities or their affiliated companies holding, applying for, or renewing a domestic wastewater discharge permit to file annual reports and other data regarding transactions or allocations of common costs and expenditures on pollution mitigation and prevention among the utility's permitted systems, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The department shall adopt rules to implement this subsection.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to

humans, animals or plants, or to the environment.

Section 10. Section 403.0616, Florida Statutes, is created to read:

403.0616 Real-time water quality monitoring program.-

(1) Subject to appropriation, the department shall establish a real-time water quality monitoring program to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources.

(2) In order to expedite the creation and implementation of the program, the department is encouraged to form public-private partnerships with established scientific entities that have proven existing real-time water quality monitoring equipment and experience in deploying the equipment.

Section 11. Subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote

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timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When ~~Where~~ appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of


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Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least ~~not less than~~ 5 days, but not ~~nor~~ more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan shall include:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;

b. A description of best management practices adopted by rule;

c. A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;

d. The source and amount of financial assistance to be made available by the department, a water management district, or


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other entity for each listed project, if applicable; and

e. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement ~~the provisions of~~ this section.

6. The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of

water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. ~~The provisions of~~ The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient utilities, if the department identifies domestic wastewater facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan that addresses domestic wastewater developed by each local government in cooperation with the department, the water management district, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements


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applicable to the domestic wastewater facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal


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systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal systems connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option.

(b) *Total maximum daily load implementation.*—

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water management district must be


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consistent with this section and does not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for the adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

a. Permitting and other existing regulatory programs, including water-quality-based effluent limitations;

b. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(22) ~~s. 403.061(21)~~, and public education;

c. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts or basin management action plans developed pursuant to this subsection;

d. Trading of water quality credits or other equitable economically based agreements;

e. Public works including capital facilities; or

f. Land acquisition.

2. For a basin management action plan adopted pursuant to paragraph (a), any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, must be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department may not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is

reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads must be implemented through NPDES permit conditions that provide for a compliance schedule. In such instances, a facility's NPDES permit must allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan may not exceed 5 years. Upon issuance of an order adopting the plan, the permit must be reopened or renewed, as necessary, and permit conditions consistent with the plan must be established. Notwithstanding the other provisions of this subparagraph, upon request by an NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations before the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer system permits and other stormwater sources, implementation of a total maximum daily load or basin management action plan must be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department must be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction

requirements set forth in a basin management action plan for a specific pollutant of concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state, regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan must be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan must demonstrate compliance with the pollutant reductions established under subsection (6) by implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water quality monitoring prescribed by the department or a water management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan may not be required by

permit, enforcement action, or otherwise to implement additional management strategies, including water quality credit trading, to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin management action plan as specified in subparagraph (a)6.

(c) *Best management practices.*—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the

Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including site inspection and recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (12)(b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and


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release from ~~the provisions of~~ s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from ~~the provisions of~~ s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management


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practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Subject to subparagraph 6., the Department of Agriculture and Consumer Services shall provide to the department information that it obtains pursuant to subparagraph (d)3.

6. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3., ~~and~~ 4., and 5. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the confidentiality specified by this subparagraph for such records is maintained.

7.~~6.~~ ~~The provisions of~~ Subparagraphs 1. and 2. do not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.


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(d) *Enforcement and verification of basin management action plans and management strategies.*—

1. Basin management action plans are enforceable pursuant to this section and ss. 403.121, 403.141, and 403.161. Management strategies, including best management practices and water quality monitoring, are enforceable under this chapter.

2. No later than January 1, 2017:

a. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of best management practices or other measures pursuant to sub-subparagraph (b)2.g.;

b. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)1.; and

c. The Department of Agriculture and Consumer Services, in consultation with the water management districts and the department, shall initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph(c)2.

The rules required under this subparagraph shall include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable

management strategies, including best management practices or water quality monitoring as a result of noncompliance.

3. At least every 2 years, the Department of Agriculture and Consumer Services shall perform onsite inspections of each agricultural producer that enrolls in a best management practice to ensure that such practice is being properly implemented. Such verification must include a collection and review of the best management practice documentation from the previous 2 years required by rule adopted in accordance with subparagraph (c)2., including, but not limited to, nitrogen and phosphorous fertilizer application records, which must be collected and retained pursuant to subparagraphs (c)3., 4., and 6. The Department of Agriculture and Consumer Services shall initially prioritize the inspection of agricultural producers located in a basin management action plan for Lake Okeechobee or the Indian River Lagoon.

(e) *Data collection and research.*—

1. The Department of Agriculture and Consumer Services, the University of Florida Institute of Food and Agricultural Sciences, and other state universities and Florida College System institutions with agricultural research programs shall annually develop research plans and legislative budget requests to:

a. Evaluate and suggest enhancements to the existing adopted agricultural best management practices to reduce nutrients;

b. Develop new best management practices that, if proven effective, the Department of Agriculture and Consumer Services may adopt by rule pursuant to paragraph (c); and


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c. Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to best management practices. The department may consider these projects for inclusion in a basin management action plan. These nutrient reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the basin management action plan.

2. To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the department and the Department of Agriculture and Consumer Services by August 1 of each year.

Section 12. Section 403.0671, Florida Statutes, is created to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include:

(a) Projects to:


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1519 1. Replace onsite sewage treatment and disposal systems
1520 with enhanced nutrient removing onsite sewage treatment and
1521 disposal systems.
1522 2. Install or retrofit onsite sewage treatment and disposal
1523 systems with enhanced nutrient removing technologies.
1524 3. Construct, upgrade, or expand domestic wastewater
1525 treatment facilities to meet the wastewater treatment plan
1526 required under s. 403.067(7)(a)9.
1527 4. Connect onsite sewage treatment and disposal systems to
1528 domestic wastewater treatment facilities;
1529 (b) The estimated costs, nutrient load reduction estimates,
1530 and other benefits of each project;
1531 (c) The estimated implementation timeline for each project;
1532 (d) A proposed 5-year funding plan for each project and the
1533 source and amount of financial assistance the department, a
1534 water management district, or other project partner will make
1535 available to fund the project; and
1536 (e) The projected costs of installing enhanced nutrient
1537 removing onsite sewage treatment and disposal systems on
1538 buildable lots in priority focus areas to comply with s.
1539 373.811.
1540 (2) By July 1, 2021, the department shall submit a report
1541 to the Governor, the President of the Senate, and the Speaker of
1542 the House of Representatives that provides an assessment of the
1543 water quality monitoring being conducted for each basin
1544 management action plan implementing a nutrient total maximum
1545 daily load. In developing the report, the department may
1546 coordinate with water management districts and any applicable
1547 university. The report must:

(a) Evaluate the water quality monitoring prescribed for each basin management action plan to determine if it is sufficient to detect changes in water quality caused by the implementation of a project.

(b) Identify gaps in water quality monitoring.

(c) Recommend ways to address water quality monitoring needs.

(3) Beginning January 1, 2022, and each January 1 thereafter, the department shall submit to the Office of Economic and Demographic Research the cost estimates for projects required under s. 403.067(7)(a)9. The office shall include the project cost estimates in its annual assessment conducted pursuant to s. 403.928.

Section 13. Section 403.0673, Florida Statutes, is created to read:

403.0673 Wastewater grant program.—A wastewater grant program is established within the Department of Environmental Protection.

(1) Subject to the appropriation of funds by the Legislature, the department may provide grants for the following projects within a basin management action plan, an alternative restoration plan adopted by final order, or a rural area of opportunity under s. 288.0656 which will individually or collectively reduce excess nutrient pollution:

(a) Projects to retrofit onsite sewage treatment and disposal systems to upgrade them to enhanced nutrient-reducing onsite sewage treatment and disposal systems.

(b) Projects to construct, upgrade, or expand facilities to provide advanced waste treatment, as defined in s. 403.086(4).

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(c) Projects to connect onsite sewage treatment and disposal systems to central sewer facilities.

(2) In allocating such funds, priority must be given to projects that subsidize the connection of onsite sewage treatment and disposal systems to wastewater treatment plants. First priority must be given to subsidize connection to existing infrastructure. Second priority must be given to any expansion of a collection or transmission system that promotes efficiency by planning the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way. Third priority must be given to all other connection of onsite sewage treatment and disposal systems to a wastewater treatment plants. The department shall consider the estimated reduction in nutrient load per project; project readiness; cost-effectiveness of the project; overall environmental benefit of a project; the location of a project; the availability of local matching funds; and projected water savings or quantity improvements associated with a project.

(3) Each grant for a project described in subsection (1) must require a minimum of a 50 percent local match of funds. However, the department may, at its discretion, waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

(4) The department shall coordinate with each water management district, as necessary, to identify grant recipients in each district.

(5) Beginning January 1, 2021, and each January 1


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thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 14. Section 403.0855, Florida Statutes, is created to read:

403.0855 Biosolids management.—

(1) The Legislature finds that it is in the best interest of this state to regulate biosolids management in order to minimize the migration of nutrients that impair waterbodies. The Legislature further finds that the expedited implementation of the recommendations of the Biosolids Technical Advisory Committee, including permitting according to site-specific application conditions, an increased inspection rate, groundwater and surface water monitoring protocols, and nutrient management research, will improve biosolids management and assist in protecting this state’s water resources and water quality.

(2) The department shall adopt rules for biosolids management.

(3) Effective July 1, 2020, all biosolids application sites must:

(a) For any renewal application, meet department rules in effect at the time of the renewal of the biosolids application site permit or facility permit.

(b) Be enrolled in the Department of Agriculture and Consumer Service’s Best Management Practices Program or be within an agricultural operation enrolled in the program for the applicable commodity type.


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(4) The permittee of a biosolids land application site shall:

(a) Conduct the land application of biosolids in accordance with basin management action plans adopted in accordance with ss. 373.807 and 403.067(7).

(b) Establish a groundwater monitoring program approved by the department for land application sites when:

1. The application rate in the nutrient management plan exceeds more than 160,400 pounds per acre per year of total plant available nitrogen or 40 pounds per acre per year of total P2O5; or

2. The soil capacity index is less than 0 mg/kg.

(c) When soil fertility testing indicates the soil capacity index has become less than 0 mg/kg, establish a groundwater monitoring program in accordance with department rules within 1 year of the date of the sampling results.

(d) When groundwater monitoring is not required, allow the department to install groundwater monitoring wells at any time during the effective period of the department-issued facility or land application site permit and conduct monitoring.

(e) Ensure a minimum unsaturated soil depth of 2 feet between the depth of biosolids placement and the water table level at the time the Class A or Class B biosolids are applied to the soil. Biosolids may not be applied on soils that have a seasonal high-water table less than 15 centimeters from the soil surface or within 15 centimeters of the intended depth of biosolids placement. As used in this section, the term "seasonal high water" means the elevation to which the ground and surface water may be expected to rise due to a normal wet season.

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(5) A municipality or county may enforce or extend an ordinance, a regulation, a resolution, a rule, a moratorium, or a policy, any of which was adopted before November 1, 2019, relating to the land application of Class B biosolids until the ordinance, regulation, resolution, rule, moratorium, or policy is repealed by the municipality or county.

Section 15. Present subsections (7) through (10) of section 403.086, Florida Statutes, are redesignated as subsections (8) through (11), respectively, a new subsection (7) is added to that section, paragraph (c) of subsection (1) and subsection (2) of that section are amended, and paragraph (d) is added to subsection (1), to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c) Notwithstanding ~~any other provisions of~~ this chapter or chapter 373, facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, ~~or~~ Charlotte Harbor Bay, or, beginning July 1, 2025, Indian River Lagoon, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in subsection (4), approved by the department. This paragraph does ~~shall~~ not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the named waters; or to facilities permitted to discharge to the

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nontidally influenced portions of the Peace River.

(d) By December 31, 2020, the department, in consultation with the water management districts and sewage disposal facilities, shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a progress report on the status of upgrades made by each facility to meet the advanced waste treatment requirements under paragraph (c). The report must include a list of sewage disposal facilities required to upgrade to advanced waste treatment, the preliminary cost estimates for the upgrades, and a projected timeline of the dates by which the upgrades will begin and be completed and the date by which operations of the upgraded facility will begin.

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment, a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations, and~~, in addition thereto,~~ advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform is ~~shall be~~ punishable by a civil penalty of $500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(7) All facilities for sanitary sewage under subsection (2) which control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility shall take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment. Facilities must use inflow and infiltration studies

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and leakage surveys to develop pipe assessment, repair, and replacement action plans that comply with department rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. The pipe assessment, repair, and replacement action plans must be reported to the department. The facility action plan must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and the required replacement action plans, as well as expenditures that are dedicated to pipe assessment, repair, and replacement. The department shall adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys; however, such department rules may not fix or revise utility rates or budgets. Any entity subject to this subsection and s. 403.061(14) may submit one report to comply with both provisions. Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141.

Section 16. Present subsections (4) through (10) of section 403.087, Florida Statutes, are redesignated as subsections (5) through (11), respectively, and a new subsection (4) is added to that section, to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(4) The department shall issue an operation permit for a domestic wastewater treatment facility other than a facility regulated under the National Pollutant Discharge Elimination System Program under s. 403.0885 for a term of up to 10 years if the facility is meeting the stated goals in its action plan

adopted pursuant to s. 403.086(7).

Section 17. Present subsections (3) and (4) of section 403.088, Florida Statutes, are redesignated as subsections (4) and (5), respectively, a new subsection (3) is added to that section, and paragraph (c) of subsection (2) of that section is amended, to read:

403.088 Water pollution operation permits; conditions.—

(2)

(c) A permit shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;

2. Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the department;

3. Require a deliberate, proactive approach to investigating or surveying a significant percentage of the domestic wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner. The permittee shall submit an annual report to the department which details facility revenues and expenditures in a manner prescribed by department rule. The report must detail any deviation of annual expenditures from identified system needs related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement required under s. 403.086(7). Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141;

4. Contain such additional conditions, requirements, and

restrictions as the department deems necessary to preserve and protect the quality of the receiving waters;

5.~~4.~~ Be valid for the period of time specified therein; and

6.~~5.~~ Constitute the state National Pollutant Discharge Elimination System permit when issued pursuant to the authority in s. 403.0885.

(3) No later than March 1 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which identifies all domestic wastewater treatment facilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility name, operator, permitted capacity in annual average gallons per day, the number of overflows, and the total volume of sewage released, and, to the extent known and available, the volume of sewage recovered, the volume of sewage discharged to surface waters, and the cause of the sanitary sewer overflow, including whether it was caused by a third party. The department shall include with this report the annual report specified under subparagraph (2)(c)3. for each utility that experienced an overflow.

Section 18. Subsection (6) of section 403.0891, Florida Statutes, is amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(6) The department and the Department of Economic Opportunity, in cooperation with local governments in the

coastal zone, shall develop a model stormwater management program that could be adopted by local governments. The model program must contain model ordinances that target nutrient reduction practices and use green infrastructure. The model program shall contain dedicated funding options, including a stormwater utility fee system based upon an equitable unit cost approach. Funding options shall be designed to generate capital to retrofit existing stormwater management systems, build new treatment systems, operate facilities, and maintain and service debt.

Section 19. Paragraphs (b) and (g) of subsection (2), paragraph (b) of subsection (3), and subsections (8) and (9) of section 403.121, Florida Statutes, are amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(2) Administrative remedies:

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $50,000 ~~$10,000~~ per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or

subsection (5) against a public water system serving a population of more than 10,000 shall be not less than $1,000 per day per violation. The department shall not impose administrative penalties in excess of $50,000 ~~$10,000~~ in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(g) Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. Nothing in this subsection shall limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $50,000 ~~$10,000~~ for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of $50,000 ~~$10,000~~. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the

settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $50,000 ~~$10,000~~ in penalties may be settled in the court action for less than $50,000 ~~$10,000~~.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $2,000 ~~$1,000~~. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of $4,000 ~~$2,000~~ for an unpermitted or unauthorized discharge or effluent-limitation exceedance or failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $10,000 ~~$5,000~~.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, shall not exceed $10,000.

(9) The administrative penalties assessed for any particular violation shall not exceed $10,000 ~~$5,000~~ against any

one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds $10,000 ~~$5,000~~, or there are multiday violations. The total administrative penalties shall not exceed $50,000 ~~$10,000~~ per assessment for all violations attributable to a specific person in the notice of violation.

Section 20. Subsection (7) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

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(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or

(h) Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

(i) Implement the requirements of ss. 403.086(7) and 403.088(2)(c).

(j) Promote efficiency by planning for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 21. Paragraph (b) of subsection (3) of section 403.1838, Florida Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(3)

(b) The rules of the Environmental Regulation Commission must:

1. Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.

2. Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.

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3. Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.

4. Establish a system to determine eligibility of grant applications.

5. Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution prevention or abatement and must prioritize projects that plan for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

6. Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.

7. Provide for termination of grants when program requirements are not met.

Section 22. Subsection (12) of section 403.814, Florida Statutes, is amended to read:

403.814 General permits; delegation.—

(12) A general permit is granted for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 10 acres meeting the criteria of this subsection. Such stormwater management systems must be designed, operated, and maintained in accordance with applicable rules adopted pursuant to part IV of chapter 373. There is a rebuttable presumption that the discharge from such systems complies with state water quality standards. The construction of such a system may proceed without any further agency action by the department or water management district if,

before construction begins, an electronic self-certification is submitted to the department or water management district which certifies that the proposed system was designed by a Florida registered professional and that the registered professional has certified that the proposed system will meet the following additional requirements:

(a) The total project area involves less than 10 acres and less than 2 acres of impervious surface;

(b) Activities will not impact wetlands or other surface waters;

(c) Activities are not conducted in, on, or over wetlands or other surface waters;

(d) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;

(e) The project is not part of a larger common plan, development, or sale; and

(f) The project does not:

1. Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;

2. Cause adverse impacts to existing surface water storage and conveyance capabilities;

3. Cause <u>or contribute to</u> a violation of state water quality standards; or

4. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086.

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2012 ================ T I T L E A M E N D M E N T ================
2013 And the title is amended as follows:
2014 Delete lines 17 - 112
2015 and insert:
2016 leave upon the transfer; creating s. 327.62, F.S.;
2017 providing legislative findings; requiring the
2018 Department of Environmental Protection, in
2019 coordination with the Fish and Wildlife Conservation
2020 Commission, to apply to the Administrator of the
2021 United States Environmental Protection Agency to
2022 establish no-discharge zones in specified areas of the
2023 state; requiring the department to submit a biennial
2024 report to the Governor and the Legislature; amending
2025 s. 373.036, F.S.; requiring water management districts
2026 to submit consolidated annual reports to the Office of
2027 Economic and Demographic Research; requiring such
2028 reports to include connection and conversion projects
2029 for onsite sewage treatment and disposal systems;
2030 amending s. 373.4131, F.S.; requiring the water
2031 management districts, with Department of Environmental
2032 Protection oversight, to adopt rules for stormwater
2033 design and performance standards; requiring the
2034 Department of Environmental Protection and water
2035 management districts to amend the Environmental
2036 Resource Permit Applicant’s Handbook by a specified
2037 date; requiring the department to include stormwater
2038 structural controls inspections as part of its regular
2039 staff training; requiring the department and the water
2040 management districts to adopt rules regarding

stormwater design and operation by a specified date; amending s. 381.0065, F.S.; conforming provisions to changes made by the act; requiring the department to adopt rules for the location of onsite sewage treatment and disposal systems and complete such rulemaking by a specified date; requiring the department to evaluate certain data relating to the self-certification program and provide the Legislature with recommendations by a specified date; providing that certain provisions relating to existing setback requirements are applicable to permits only until the adoption of certain rules by the department; creating s. 381.00652, F.S.; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; providing the duties and membership of the committee; requiring the committee to submit a report to the Governor and the Legislature by a specified date; providing for the expiration of the committee; repealing s. 381.0068, F.S., relating to a technical review and advisory panel; amending s. 403.061, F.S.; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file certain reports and data with the department; creating s. 403.0616, F.S.; requiring the department, subject to legislative appropriation, to establish a real-time water quality monitoring program;


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encouraging the formation of public-private partnerships; amending s. 403.067, F.S.; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system remediation plans that meet certain requirements; requiring the Department of Agriculture and Consumer Services to collect fertilization and nutrient records from certain agricultural producers and provide the information to the department annually by a specified date; requiring the Department of Agriculture and Consumer Services to perform onsite inspections of the agricultural producers at specified intervals; requiring certain entities to develop research plans and legislative budget requests relating to best management practices by a specified date; creating s. 403.0671, F.S.; directing the Department of Environmental Protection, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, to submit a report on the costs of certain wastewater projects to the Governor and Legislature by a specified date; requiring the department to submit a specified water quality monitoring assessment report to the Governor and the Legislature by a specified date; requiring the department to submit certain wastewater project cost estimates to the Office of Economic and Demographic Research; creating s. 403.0673, F.S.; establishing a wastewater grant program within the Department of


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Environmental Protection; authorizing the department to distribute appropriated funds for certain projects; providing requirements for the distribution; requiring the department to coordinate with each water management district to identify grant recipients; requiring an annual report to the Governor and the Legislature by a specified date; creating s. 403.0855, F.S.; providing legislative findings regarding the regulation of biosolids management in this state; requiring the Department of Environmental Protection to adopt rules for biosolids management; specifying requirements for certain existing permits and for permit renewals; requiring the permittee of a biosolids application site to establish a groundwater monitoring program under certain circumstances; prohibiting the land application of biosolids within a specified distance of the seasonal high-water table; defining the term “seasonal high water”; authorizing municipalities and counties to take certain actions with respect to regulation of the land application of specified biosolids; amending s. 403.086, F.S.; prohibiting facilities for sanitary sewage disposal from disposing of any waste in the Indian River Lagoon beginning on a specified date without first providing advanced waste treatment; requiring the Department of Environmental Protection, in consultation with water management districts and sewage disposal facilities, to submit a report to the Governor and the Legislature on the status of certain facility upgrades; specifying


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requirements for the report; requiring facilities for sanitary sewage disposal to have a power outage contingency plan; requiring the facilities to take steps to prevent overflows and leaks and ensure that the water reaches the appropriate facility for treatment; requiring the facilities to provide the Department of Environmental Protection with certain information; requiring the department to adopt rules; amending s. 403.087, F.S.; requiring the department to issue operation permits for domestic wastewater treatment facilities to certain facilities under certain circumstances; amending s. 403.088, F.S.; revising the permit conditions for a water pollution operation permit; requiring the department to submit a report to the Governor and the Legislature by a specified date identifying all wastewater utilities that experienced sanitary sewer overflows within a specified timeframe; amending s. 403.0891, F.S.; requiring model stormwater management programs to contain model ordinances for nutrient reduction practices and green infrastructure; amending s. 403.121, F.S.; increasing and providing administrative penalties; amending s. 403.1835, F.S.; conforming a cross-reference; requiring the department to give priority for water pollution control financial assistance to projects that implement certain provisions and that promote efficiency; amending s. 403.1838, F.S.; revising requirements for the prioritization of grant applications within the Small

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Community Sewer Construction Assistance Act; amending s. 403.814, F.S.; revising the additional requirements that a proposed stormwater management system must meet; providing


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576-02463-20

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 water quality improvements; providing a short title; requiring the Department of Health to provide a specified report to the Governor and the Legislature by a specified date; requiring the Department of Health and the Department of Environmental Protection to submit to the Governor and the Legislature, by a specified date, certain recommendations relating to the transfer of the Onsite Sewage Program; requiring the departments to enter into an interagency agreement that meets certain requirements by a specified date; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection by a type two transfer by a specified date; providing that certain employees retain and transfer certain types of leave upon the transfer; amending s. 373.4131, F.S.; requiring the Department of Environmental Protection to include stormwater structural controls inspections as part of its regular staff training; requiring the department and the water management districts to adopt rules regarding stormwater design and operation by a specified date; amending s. 381.0065, F.S.; conforming provisions to changes made by the act; requiring the department to adopt rules for the location of onsite sewage treatment and disposal systems and complete


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such rulemaking by a specified date; requiring the department to evaluate certain data relating to the self-certification program and provide the Legislature with recommendations by a specified date; providing that certain provisions relating to existing setback requirements are applicable to permits only until the adoption of certain rules by the department; creating s. 381.00652, F.S.; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; providing the duties and membership of the committee; requiring the committee to submit a report to the Governor and the Legislature by a specified date; providing for the expiration of the committee; repealing s. 381.0068, F.S., relating to a technical review and advisory panel; amending s. 403.061, F.S.; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file certain reports and data with the department; creating s. 403.0616, F.S.; requiring the department, subject to legislative appropriation, to establish a real-time water quality monitoring program; encouraging the formation of public-private partnerships; amending s. 403.067, F.S.; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system

remediation plans that meet certain requirements; requiring the Department of Agriculture and Consumer Services to collect fertilization and nutrient records from certain agricultural producers and provide the information to the department annually by a specified date; requiring the Department of Agriculture and Consumer Services to perform onsite inspections of the agricultural producers at specified intervals; authorizing certain entities to develop research plans and legislative budget requests relating to best management practices by a specified date; creating s. 403.0673, F.S.; establishing a wastewater grant program within the Department of Environmental Protection; authorizing the department to distribute appropriated funds for certain projects; providing requirements for the distribution; requiring the department to coordinate with each water management district to identify grant recipients; requiring an annual report to the Governor and the Legislature by a specified date; creating s. 403.0855, F.S.; providing legislative findings regarding the regulation of biosolids management in this state; requiring the department to adopt rules for biosolids management; exempting the rules from a specified statutory requirement; amending s. 403.086, F.S.; prohibiting facilities for sanitary sewage disposal from disposing of any waste in the Indian River Lagoon beginning on a specified date without first providing advanced waste treatment; requiring facilities for sanitary sewage

disposal to have a power outage contingency plan; requiring the facilities to take steps to prevent overflows and leaks and ensure that the water reaches the appropriate facility for treatment; requiring the facilities to provide the Department of Environmental Protection with certain information; requiring the department to adopt rules; amending s. 403.087, F.S.; requiring the department to issue operation permits for domestic wastewater treatment facilities to certain facilities under certain circumstances; amending s. 403.088, F.S.; revising the permit conditions for a water pollution operation permit; requiring the department to submit a report to the Governor and the Legislature by a specified date identifying all wastewater utilities that experienced sanitary sewer overflows within a specified timeframe; amending s. 403.0891, F.S.; requiring model stormwater management programs to contain model ordinances for nutrient reduction practices and green infrastructure; amending s. 403.121, F.S.; increasing and providing administrative penalties; amending s. 403.1835, F.S.; conforming a cross-reference; requiring the department to give priority for water pollution control financial assistance to projects that implement certain provisions and that promote efficiency; amending s. 403.1838, F.S.; revising requirements for the prioritization of grant applications within the Small Community Sewer Construction Assistance Act; providing a declaration of important state interest; amending

ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.705, 373.707, 373.709, 373.807, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.00651, 381.0101, 403.08601, 403.0871, 403.0872, 403.707, 403.861, 489.551, and 590.02, F.S.; conforming cross-references and provisions to changes made by the act; providing a directive to the Division of Law Revision upon the adoption of certain rules by the Department of Environmental Protection; providing effective dates.

WHEREAS, nutrients negatively impact groundwater and surface waters in this state and cause the proliferation of algal blooms, and

WHEREAS, onsite sewage treatment and disposal systems were designed to manage human waste and are permitted by the Department of Health for that purpose, and

WHEREAS, conventional onsite sewage treatment and disposal systems contribute nutrients to groundwater and surface waters across this state which can cause harmful blue-green algal blooms, and

WHEREAS, many stormwater systems are designed primarily to divert and control stormwater rather than to remove pollutants, and

WHEREAS, most existing stormwater system design criteria fail to consistently meet either the 80 percent or 95 percent target pollutant reduction goals established by the Department of Environmental Protection, and

WHEREAS, other significant pollutants often can be removed

from stormwater more easily than nutrients and, as a result, design criteria that provide the desired removal efficiencies for nutrients will likely achieve equal or better removal efficiencies for other constituents, and

WHEREAS, the Department of Environmental Protection has found that the major causes of sanitary sewer overflows during storm events are infiltration, inflow, and acute power failures, and

WHEREAS, the Department of Environmental Protection lacks statutory authority to regulate infiltration and inflow or to require that all lift stations constructed prior to 2003 have emergency backup power, and

WHEREAS, sanitary sewer overflows and leaking infrastructure create both a human health concern and a nutrient pollution problem, and

WHEREAS, the agricultural sector is a significant contributor to the excess delivery of nutrients to surface waters throughout this state and has been identified as the dominant source of both phosphorus and nitrogen within the Lake Okeechobee watershed and a number of other basin management action plan areas, and

WHEREAS, only 75 percent of eligible agricultural parties within the Lake Okeechobee Basin Management Action Plan area are enrolled in an appropriate best management practice and enrollment numbers are considerably less in other basin management action plan areas, and

WHEREAS, although agricultural best management practices, by design, should be technically feasible and economically viable, that does not imply that their adoption and full

implementation, alone, will alleviate downstream water quality impairments, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Clean Waterways Act."

Section 2. (1) By July 1, 2020, the Department of Health must provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the following information regarding the Onsite Sewage Program:

(a) The average number of permits issued each year;

(b) The number of department employees conducting work on or related to the program each year; and

(c) The program's costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.

(2) By December 31, 2020, the Department of Health and the Department of Environmental Protection shall submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the transfer of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the Department of Environmental Protection.

(3) By June 30, 2021, the Department of Health and the Department of Environmental Protection shall enter into an interagency agreement based on the Department of Health report required under subsection (2) and on recommendations from a plan that must address all agency cooperation for a period not less than 5 years after the transfer, including:

(a) The continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the Department of Environmental Protection.

(b) The appropriate proportionate number of administrative, auditing, inspector general, attorney, and operational support positions, and their related funding levels and sources and assigned property, to be transferred from the Office of General Counsel, the Office of Inspector General, and the Division of Administrative Services or other relevant offices or divisions within the Department of Health to the Department of Environmental Protection.

(c) The development of a recommended plan to address the transfer or shared use of buildings, regional offices, and other facilities used or owned by the Department of Health.

(d) Any operating budget adjustments that are necessary to implement the requirements of this act. Adjustments made to the operating budgets of the agencies in the implementation of this act must be made in consultation with the appropriate substantive and fiscal committees of the Senate and the House of Representatives. The revisions to the approved operating budgets for the 2021-2022 fiscal year which are necessary to reflect the organizational changes made by this act must be implemented

pursuant to s. 216.292(4)(d), Florida Statutes, and are subject to s. 216.177, Florida Statutes. Subsequent adjustments between the Department of Health and the Department of Environmental Protection which are determined necessary by the respective agencies and approved by the Executive Office of the Governor are authorized and subject to s. 216.177, Florida Statutes. The appropriate substantive committees of the Senate and the House of Representatives must also be notified of the proposed revisions to ensure their consistency with legislative policy and intent.

(4) Effective July 1, 2021, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the regulation of onsite sewage treatment and disposal systems relating to the Onsite Sewage Program in the Department of Health are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Environmental Protection.

(5) Notwithstanding chapter 60L-34, Florida Administrative Code, or any law to the contrary, employees who are transferred from the Department of Health to the Department of Environmental Protection to fill positions transferred by this act retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

Section 3. Subsection (5) of section 373.4131, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

373.4131 Statewide environmental resource permitting rules.—

(5) To ensure consistent implementation and interpretation of the rules adopted pursuant to this section, the department shall conduct or oversee regular assessment and training of its staff and the staffs of the water management districts and local governments delegated local pollution control program authority under s. 373.441. The training must include coordinating field inspections of publicly and privately owned stormwater structural controls, such as stormwater retention or detention ponds.

(6) By January 1, 2021:

(a) The department and the water management districts shall initiate rulemaking to update the stormwater design and operation regulations using the most recent scientific information available; and

(b) The department shall evaluate inspection data relating to compliance by those entities that self-certify under s. 403.814(12) and provide the Legislature with recommendations for improvements to the self-certification program.

Section 4. Effective July 1, 2021, present paragraphs (d) through (q) of subsection (2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (e) through (r), respectively, a new paragraph (d) is added to that subsection, and subsections (3) and (4) of that section are amended, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the

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term:

(d) "Department" means the Department of Environmental Protection.

(3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The department shall:

(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, ~~decreases to setback requirements where no health hazard exists,~~ increases for the lot-flow allowance for performance-based systems, requirements for separation from water table elevation during the wettest season, requirements for the design and construction of any component part of an onsite sewage treatment and disposal system, application and permit requirements for persons who maintain an onsite sewage treatment and disposal system, requirements for maintenance and service agreements for aerobic treatment units and performance-based treatment systems, and recommended standards, including disclosure requirements, for voluntary system inspections to be performed by individuals who are authorized by law to perform such inspections and who shall inform a person having ownership, control, or use of an onsite sewage treatment and disposal system of the inspection standards and of that person's authority to request an inspection based on all or part of the standards.

(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an onsite sewage treatment and disposal system for a residence or

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establishment with an estimated domestic sewage flow of 10,000 gallons or less per day, or an estimated commercial sewage flow of 5,000 gallons or less per day, which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, sited, repaired, modified, abandoned, used, operated, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination, including impacts from nutrient pollution, and surface water contamination and to preserve the public health. The department is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule interpretation, the secretary of the department ~~State Surgeon General~~, or his or her designee, shall timely assign a staff person to resolve the dispute.

(d) Grant variances in hardship cases under the conditions prescribed in this section and rules adopted under this section.

(e) Permit the use of a limited number of innovative systems for a specific period of time, when there is compelling evidence that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.

(f) Issue annual operating permits under this section.

(g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.

(h) Conduct enforcement activities, including imposing

fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted under this section, part I of chapter 386, or part III of chapter 489.

(i) Provide or conduct education and training of department personnel, service providers, and the public regarding onsite sewage treatment and disposal systems.

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects may ~~shall~~ not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review

and advisory panel or the research review and advisory committee.

(k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.

(l) Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any system regulated under this chapter and not regulated by the Department of Environmental Protection.

(m) Permit and inspect portable or temporary toilet services and holding tanks. The department shall review applications, perform site evaluations, and issue permits for the temporary use of holding tanks, privies, portable toilet services, or any other toilet facility that is intended for use on a permanent or nonpermanent basis, including facilities placed on construction sites when workers are present. The department may specify standards for the construction, maintenance, use, and operation of any such facility for temporary use.

(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer’s specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include: training, access to approved spare parts and components, access to manufacturer’s maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or

a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section.~~, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that~~ The issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department ~~of Environmental Protection~~. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained before ~~prior to~~ the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a

construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department ~~of Health~~, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the

agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) The department shall adopt rules to locate onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process for such rules must be completed by July 1, 2022, and the department shall notify the Division of Law Revision of the date such rules are adopted. The rules must consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to s. 381.00652.

(f) ~~(c)~~ Onsite sewage treatment and disposal systems that are permitted before adoption of the rules identified in paragraph (e) may ~~must~~ not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

~~(f) Except as provided under paragraphs (c) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.~~

(g) All provisions of this section and rules adopted under

this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage

treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than ~~the provisions~~ specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

a. The Secretary of Environmental Protection ~~State Surgeon General~~ or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

e. A representative from the Department of Health ~~Environmental Protection~~.

f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the

Florida Association of Realtors.

g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department may ~~shall~~ not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial

wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified

by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the

application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under ~~the provisions of~~ chapter 120.

3. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced. The reports may be submitted electronically.

4. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own performance-based treatment system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

5. The property owner shall obtain a biennial system operating permit from the department for each system. The department shall inspect the system at least annually, or on

such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with ~~the provisions of~~ this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the

Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent shall be deemed to be in compliance with this standard.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. In areas not scheduled to be served by a central sewer, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that

meets the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other ~~provision of~~ law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewer system until December 31, 2020.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality

standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(k) ~~(2)(j)~~. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Secretary of Environmental Protection ~~State Surgeon General~~, or his or her designee.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from local government who is knowledgeable about domestic wastewater treatment.

8. A representative from the real estate profession.

9. A representative from the restaurant industry.

10. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(p) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(q) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(r) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(s) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering may ~~shall~~ not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(t) Notwithstanding ~~the provisions of~~ subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield may ~~shall~~ not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless,

incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system ~~approved by the State Health Office~~ that is capable of reducing effluent nitrate by at least 50 percent in accordance with department rules; or a system other than a system using alternative drainfield materials in accordance with department rules ~~approved by the county health department pursuant to department rule other than a system using alternative drainfield materials~~. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water may ~~shall~~ not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(u)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems

inspected and serviced. The reports may be submitted electronically.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

3. A septic tank contractor licensed under part III of chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part's equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for

performance criteria established by rule of the department.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(w) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system shall transfer with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction. This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution (1885).

(x) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed

performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(y)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(z) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site

conditions have not changed between the time of construction approval and final approval.

(aa) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

Section 5. Section 381.00652, Florida Statutes, is created to read:

381.00652 Onsite sewage treatment and disposal systems technical advisory committee.—

(1) An onsite sewage treatment and disposal systems technical advisory committee, a committee as defined in s. 20.03(8), is created within the department. The committee shall:

(a) Provide recommendations to increase the availability in the marketplace of enhanced nutrient-reducing onsite sewage treatment and disposal systems, including systems that are cost-effective, low-maintenance, and reliable.

(b) Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of enhanced nutrient-reducing onsite sewage treatment and disposal systems that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the NSF International.

(c) Provide recommendations for appropriate setback distances for onsite sewage treatment and disposal systems from surface water, groundwater, and wells.

(2) The department shall use existing and available resources to administer and support the activities of the committee.

(3)(a) By August 1, 2021, the department, in consultation with the Department of Health, shall appoint no more than nine members to the committee, including, but not limited to, the following:

1. A professional engineer.

2. A septic tank contractor.

3. A representative from the home building industry.

4. A representative from the real estate industry.

5. A representative from the onsite sewage treatment and

disposal system industry.

6. A representative from local government.

7. Two representatives from the environmental community.

8. A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

(b) Members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(4) By January 1, 2022, the committee shall submit its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) This section expires August 15, 2022.

(6) For purposes of this section, the term "department" means the Department of Environmental Protection.

Section 6. Effective July 1, 2021, section 381.0068, Florida Statutes, is repealed.

Section 7. Present subsections (14) through (44) of section 403.061, Florida Statutes, are redesignated as subsections (15) through (45), respectively, a new subsection (14) is added to that section, and subsection (7) of that section is amended, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this act. Any rule adopted pursuant to this act must ~~shall~~ be consistent with the provisions of

federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. A ~~No~~ county, municipality, or political subdivision may not ~~shall~~ adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act may ~~shall~~ not require dischargers of waste into waters of the state to improve natural background conditions. The department shall adopt rules to reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and inflow and infiltration. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, may ~~shall~~ not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(14) In order to promote resilient utilities, require public utilities or their affiliated companies holding, applying for, or renewing a domestic wastewater discharge permit to file annual reports and other data regarding transactions or allocations of common costs and expenditures on pollution mitigation and prevention among the utility's permitted systems, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The department shall adopt rules to implement this subsection.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 8. Section 403.0616, Florida Statutes, is created to read:

403.0616 Real-time water quality monitoring program.-

(1) Subject to appropriation, the department shall establish a real-time water quality monitoring program to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources.

(2) In order to expedite the creation and implementation of the program, the department is encouraged to form public-private partnerships with established scientific entities that have proven existing real-time water quality monitoring equipment and experience in deploying the equipment.

Section 9. Subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When ~~Where~~

appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least ~~not less than~~ 5 days, but not ~~nor~~ more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan shall include:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;

b. A description of best management practices adopted by rule;

c. A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;

d. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; and

e. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement ~~the provisions of~~ this section.

6. The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by

the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. ~~The provisions of~~ The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient utilities, if the department identifies domestic wastewater facilities or onsite

sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan that addresses domestic wastewater developed by each local government in cooperation with the department, the water management district, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to

establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal systems connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the

planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option.

(b) *Total maximum daily load implementation.*—

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water management district must be consistent with this section and does not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for the adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

a. Permitting and other existing regulatory programs, including water-quality-based effluent limitations;

b. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(22) ~~s. 403.061(21)~~, and public education;

c. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts or basin management action plans developed pursuant to this subsection;

d. Trading of water quality credits or other equitable economically based agreements;

e. Public works including capital facilities; or

f. Land acquisition.

2. For a basin management action plan adopted pursuant to paragraph (a), any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, must be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department may not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads must be implemented through NPDES permit conditions that provide for a compliance schedule. In such instances, a facility's NPDES permit must allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan may not exceed 5 years. Upon issuance of an order adopting the plan, the permit must be reopened or renewed, as necessary, and permit conditions consistent with the plan must be established. Notwithstanding the other provisions of this subparagraph, upon request by an NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations before the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer

system permits and other stormwater sources, implementation of a total maximum daily load or basin management action plan must be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department must be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state, regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan must be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan must demonstrate compliance with the pollutant reductions established under subsection (6) by implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water

quality monitoring prescribed by the department or a water management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan may not be required by permit, enforcement action, or otherwise to implement additional management strategies, including water quality credit trading, to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin management action plan as specified in subparagraph (a)6.

(c) *Best management practices.*—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures

may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including site inspection and recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant

to subsection (6) and this subsection or in programs implemented pursuant to paragraph (12)(b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from ~~the provisions of~~ s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from ~~the provisions of~~ s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner

or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Subject to subparagraph 6., the Department of Agriculture and Consumer Services shall provide to the department information that it obtains pursuant to subparagraph (d)3.

6. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3., ~~and~~ 4., and 5. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the confidentiality specified by this subparagraph for such records is maintained.

7.~~6.~~ ~~The provisions of~~ Subparagraphs 1. and 2. do not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

(d) *Enforcement and verification of basin management action plans and management strategies.*—

1. Basin management action plans are enforceable pursuant to this section and ss. 403.121, 403.141, and 403.161. Management strategies, including best management practices and water quality monitoring, are enforceable under this chapter.

2. No later than January 1, 2017:

a. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of best management practices or other measures pursuant to sub-subparagraph (b)2.g.;

b. The department, in consultation with the water management districts and the Department of Agriculture and

Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)1.; and

c. The Department of Agriculture and Consumer Services, in consultation with the water management districts and the department, shall initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph(c)2.

The rules required under this subparagraph shall include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including best management practices or water quality monitoring as a result of noncompliance.

3. At least every 2 years, the Department of Agriculture and Consumer Services shall perform onsite inspections of each agricultural producer that enrolls in a best management practice to ensure that such practice is being properly implemented. Such verification must include a review of the best management practice documentation required by rule adopted in accordance with subparagraph (c)2., including, but not limited to, nitrogen and phosphorous fertilizer application records, which must be collected and retained pursuant to subparagraphs (c)3., 4., and 6.

(e) *Data collection and research.*—

1. The Department of Agriculture and Consumer Services, the University of Florida Institute of Food and Agricultural

Sciences, and other state universities and Florida College System institutions with agricultural research programs may annually develop research plans and legislative budget requests to:

a. Evaluate and suggest enhancements to the existing adopted agricultural best management practices to reduce nutrients;

b. Develop new best management practices that, if proven effective, the Department of Agriculture and Consumer Services may adopt by rule pursuant to paragraph (c); and

c. Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to best management practices. The department may consider these projects for inclusion in a basin management action plan. These nutrient reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the basin management action plan.

2. To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the department and the Department of Agriculture and Consumer Services by August 1 of each year.

Section 10. Section 403.0673, Florida Statutes, is created to read:

403.0673 Wastewater grant program.—A wastewater grant program is established within the Department of Environmental

Protection.

(1) Subject to the appropriation of funds by the Legislature, the department may provide grants for the following projects within a basin management action plan, an alternative restoration plan adopted by final order, or a rural area of opportunity under s. 288.0656 which will individually or collectively reduce excess nutrient pollution:

(a) Projects to retrofit onsite sewage treatment and disposal systems to upgrade them to enhanced nutrient-reducing onsite sewage treatment and disposal systems.

(b) Projects to construct, upgrade, or expand facilities to provide advanced waste treatment, as defined in s. 403.086(4).

(c) Projects to connect onsite sewage treatment and disposal systems to central sewer facilities.

(2) In allocating such funds, priority must be given to projects that subsidize the connection of onsite sewage treatment and disposal systems to wastewater treatment plants. First priority must be given to subsidize connection to existing infrastructure. Second priority must be given to any expansion of a collection or transmission system that promotes efficiency by planning the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way. Third priority must be given to all other connection of onsite sewage treatment and disposal systems to a wastewater treatment plants. The department shall consider the estimated reduction in nutrient load per project; project readiness; cost-effectiveness of the project; overall environmental benefit of a project; the location of a project;

the availability of local matching funds; and projected water savings or quantity improvements associated with a project.

(3) Each grant for a project described in subsection (1) must require a minimum of a 50 percent local match of funds. However, the department may, at its discretion, waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

(4) The department shall coordinate with each water management district, as necessary, to identify grant recipients in each district.

(5) Beginning January 1, 2021, and each January 1 thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 11. Section 403.0855, Florida Statutes, is created to read:

403.0855 Biosolids management.—The Legislature finds that it is in the best interest of this state to regulate biosolids management in order to minimize the migration of nutrients that impair waterbodies. The Legislature further finds that the expedited implementation of the recommendations of the Biosolids Technical Advisory Committee, including permitting according to site-specific application conditions, an increased inspection rate, groundwater and surface water monitoring protocols, and nutrient management research, will improve biosolids management and assist in protecting this state's water resources and water quality. The department shall adopt rules for biosolids

management. Rules adopted by the department pursuant to this section before the 2021 regular legislative session are not subject to s. 120.541(3). A municipality or county may enforce or extend an ordinance, a regulation, a resolution, a rule, a moratorium, or a policy, any of which was adopted before November 1, 2019, relating to the land application of Class B biosolids until the ordinance, regulation, resolution, rule, moratorium, or policy is repealed by the municipality or county.

Section 12. Present subsections (7) through (10) of section 403.086, Florida Statutes, are redesignated as subsections (8) through (11), respectively, a new subsection (7) is added to that section, and paragraph (c) of subsection (1) and subsection (2) of that section are amended, to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c) Notwithstanding any other provisions of this chapter or chapter 373, facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, Indian River Lagoon beginning July 1, 2025, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in subsection (4), approved by the department. This paragraph shall not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the named waters; or

to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment, a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations, and~~, in addition thereto,~~ advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform is ~~shall be~~ punishable by a civil penalty of $500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(7) All facilities for sanitary sewage under subsection (2) which control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility shall take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans that comply with department rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. The pipe assessment, repair, and replacement action plans must be reported to the department. The facility action plan must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and the required replacement action plans, as well as expenditures that are dedicated to pipe assessment, repair, and replacement. The department shall adopt rules regarding the implementation of

inflow and infiltration studies and leakage surveys; however, such department rules may not fix or revise utility rates or budgets. Any entity subject to this subsection and s. 403.061(14) may submit one report to comply with both provisions. Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141.

Section 13. Present subsections (4) through (10) of section 403.087, Florida Statutes, are redesignated as subsections (5) through (11), respectively, and a new subsection (4) is added to that section, to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(4) The department shall issue an operation permit for a domestic wastewater treatment facility other than a facility regulated under the National Pollutant Discharge Elimination System Program under s. 403.0885 for a term of up to 10 years if the facility is meeting the stated goals in its action plan adopted pursuant to s. 403.086(7).

Section 14. Present subsections (3) and (4) of section 403.088, Florida Statutes, are redesignated as subsections (4) and (5), respectively, a new subsection (3) is added to that section, and paragraph (c) of subsection (2) of that section is amended, to read:

403.088 Water pollution operation permits; conditions.—

(2)

(c) A permit shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;

2. Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the department;

3. Require a deliberate, proactive approach to investigating or surveying a significant percentage of the domestic wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner. The permittee shall submit an annual report to the department which details facility revenues and expenditures in a manner prescribed by department rule. The report must detail any deviation of annual expenditures from identified system needs related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement required under s. 403.086(7). Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141;

4. Contain such additional conditions, requirements, and restrictions as the department deems necessary to preserve and protect the quality of the receiving waters;

5.~~4.~~ Be valid for the period of time specified therein; and

6.~~5.~~ Constitute the state National Pollutant Discharge Elimination System permit when issued pursuant to the authority in s. 403.0885.

(3) No later than March 1 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which identifies all domestic wastewater treatment facilities that experienced a sanitary sewer overflow in the preceding calendar

year. The report must identify the utility name, operator, permitted capacity in annual average gallons per day, the number of overflows, and the total volume of sewage released, and, to the extent known and available, the volume of sewage recovered, the volume of sewage discharged to surface waters, and the cause of the sanitary sewer overflow, including whether it was caused by a third party. The department shall include with this report the annual report specified under subparagraph (2)(c)3. for each utility that experienced an overflow.

Section 15. Subsection (6) of section 403.0891, Florida Statutes, is amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(6) The department and the Department of Economic Opportunity, in cooperation with local governments in the coastal zone, shall develop a model stormwater management program that could be adopted by local governments. The model program must contain model ordinances that target nutrient reduction practices and use green infrastructure. The model program shall contain dedicated funding options, including a stormwater utility fee system based upon an equitable unit cost approach. Funding options shall be designed to generate capital to retrofit existing stormwater management systems, build new treatment systems, operate facilities, and maintain and service debt.

Section 16. Paragraphs (b) and (g) of subsection (2),

paragraph (b) of subsection (3), and subsections (8) and (9) of section 403.121, Florida Statutes, are amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(2) Administrative remedies:

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $50,000 ~~$10,000~~ per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than $1,000 per day per violation. The department shall not impose administrative penalties in excess of $50,000 ~~$10,000~~ in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(g) Nothing herein shall be construed as preventing any

other legal or administrative action in accordance with law. Nothing in this subsection shall limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $50,000 ~~$10,000~~ for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of $50,000 ~~$10,000~~. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $50,000 ~~$10,000~~ in penalties may be settled in the court action for less than $50,000 ~~$10,000~~.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $2,000 ~~$1,000~~. For a

domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of $4,000 ~~$2,000~~ for an unpermitted or unauthorized discharge or effluent-limitation exceedance or failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $10,000 ~~$5,000~~.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, shall not exceed $20,000 ~~$10,000~~.

(9) The administrative penalties assessed for any particular violation shall not exceed $10,000 ~~$5,000~~ against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds $10,000 ~~$5,000~~, or there are multiday violations. The total administrative penalties shall not exceed $50,000 ~~$10,000~~ per assessment for all violations attributable to a specific person in the notice of violation.

Section 17. Subsection (7) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or

prevent adverse effects on surface or ground water quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or

(h) Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

(i) Implement the requirements of ss. 403.086(7) and 403.088(2)(c).

(j) Promote efficiency by planning for the installation of

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wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 18. Paragraph (b) of subsection (3) of section 403.1838, Florida Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(3)

(b) The rules of the Environmental Regulation Commission must:

1. Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.

2. Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.

3. Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.

4. Establish a system to determine eligibility of grant applications.

5. Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution prevention or abatement and must prioritize projects that plan for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a

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transportation facility right-of-way.

6. Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.

7. Provide for termination of grants when program requirements are not met.

Section 19. The Legislature determines and declares that this act fulfills an important state interest.

Section 20. Effective July 1, 2021, subsection (5) of section 153.54, Florida Statutes, is amended to read:

153.54 Preliminary report by county commissioners with respect to creation of proposed district.—Upon receipt of a petition duly signed by not less than 25 qualified electors who are also freeholders residing within an area proposed to be incorporated into a water and sewer district pursuant to this law and describing in general terms the proposed boundaries of such proposed district, the board of county commissioners if it shall deem it necessary and advisable to create and establish such proposed district for the purpose of constructing, establishing or acquiring a water system or a sewer system or both in and for such district (herein called "improvements"), shall first cause a preliminary report to be made which such report together with any other relevant or pertinent matters, shall include at least the following:

(5) For the construction of a new proposed central sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and

a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Such report shall be filed in the office of the clerk of the circuit court and shall be open for the inspection of any taxpayer, property owner, qualified elector or any other interested or affected person.

Section 21. Effective July 1, 2021, paragraph (c) of subsection (2) of section 153.73, Florida Statutes, is amended to read:

153.73 Assessable improvements; levy and payment of special assessments.—Any district may provide for the construction or reconstruction of assessable improvements as defined in s. 153.52, and for the levying of special assessments upon benefited property for the payment thereof, under ~~the provisions of~~ this section.

(2)

(c) For the construction of a new proposed central sewerage

system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Section 22. Effective July 1, 2021, subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate

water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Environmental Protection ~~Health~~ to serve new development.

Section 23. Effective July 1, 2021, subsection (3) of section 180.03, Florida Statutes, is amended to read:

180.03 Resolution or ordinance proposing construction or extension of utility; objections to same.—

(3) For the construction of a new proposed central sewerage system or the extension of an existing central sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed central sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251

et seq.; and other factors deemed relevant by the local authority. The results of such a study shall be included in the resolution or ordinance required under subsection (1).

Section 24. Subsections (2), (3), and (6) of section 311.105, Florida Statutes, are amended to read:

311.105 Florida Seaport Environmental Management Committee; permitting; mitigation.—

(2) Each application for a permit authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ must include:

(a) A description of maintenance dredging activities to be conducted and proposed methods of dredged-material management.

(b) A characterization of the materials to be dredged and the materials within dredged-material management sites.

(c) A description of dredged-material management sites and plans.

(d) A description of measures to be undertaken, including environmental compliance monitoring, to minimize adverse environmental effects of maintenance dredging and dredged-material management.

(e) Such scheduling information as is required to facilitate state supplementary funding of federal maintenance dredging and dredged-material management programs consistent with beach restoration criteria of the Department of Environmental Protection.

(3) Each application for a permit authorized pursuant to s. 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~ paragraphs (2)(b)-(e) and the following:

(a) A description of dredging and dredged-material management and other related activities associated with port

development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(b) A discussion of environmental mitigation as is proposed for dredging and dredged-material management for port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(6) Dredged-material management activities authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~ shall be incorporated into port master plans developed pursuant to s. 163.3178(2)(k).

Section 25. Paragraph (d) of subsection (1) of section 327.46, Florida Statutes, is amended to read:

327.46 Boating-restricted areas.—

(1) Boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.

(d) Owners of private submerged lands that are adjacent to Outstanding Florida Waters, as defined in s. 403.061(28) ~~s. 403.061(27)~~, or an aquatic preserve established under ss. 258.39-258.399 may request that the commission establish boating-restricted areas solely to protect any seagrass and contiguous seagrass habitat within their private property

boundaries from seagrass scarring due to propeller dredging. Owners making a request pursuant to this paragraph must demonstrate to the commission clear ownership of the submerged lands. The commission shall adopt rules to implement this paragraph, including, but not limited to, establishing an application process and criteria for meeting the requirements of this paragraph. Each approved boating-restricted area shall be established by commission rule. For marking boating-restricted zones established pursuant to this paragraph, owners of privately submerged lands shall apply to the commission for a uniform waterway marker permit in accordance with ss. 327.40 and 327.41, and shall be responsible for marking the boating-restricted zone in accordance with the terms of the permit.

Section 26. Paragraph (d) of subsection (3) of section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(3)

(d) The South Florida Water Management District shall require the use of reclaimed water made available by the elimination of wastewater ocean outfall discharges as provided for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or groundwater when the use of reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user. Such reclaimed water may also be required in lieu of other alternative sources. In determining whether to require such reclaimed water in lieu of other alternative sources, the water management district shall consider existing infrastructure investments in place or obligated to be constructed by an

executed contract or similar binding agreement as of July 1, 2011, for the development of other alternative sources.

Section 27. Subsection (9) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(9) The department and the governing boards, on or before July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~ this section, relying primarily on the existing rules of the department and the water management districts, into the rules governing the management and storage of surface waters. Such rules shall seek to achieve a statewide, coordinated and consistent permitting approach to activities regulated under this part. Variations in permitting criteria in the rules of individual water management districts or the department shall only be provided to address differing physical or natural characteristics. Such rules adopted pursuant to this subsection shall include the special criteria adopted pursuant to s. 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules shall include a provision requiring that a notice of intent to deny or a permit denial based upon this section shall contain an explanation of the reasons for such denial and an explanation, in general terms, of what changes, if any, are necessary to address such reasons for denial. Such rules may establish exemptions and general permits, if such exemptions and general permits do not allow significant adverse impacts to occur individually or cumulatively. Such rules may require submission of proof of financial responsibility which may include the

posting of a bond or other form of surety prior to the commencement of construction to provide reasonable assurance that any activity permitted pursuant to this section, including any mitigation for such permitted activity, will be completed in accordance with the terms and conditions of the permit once the construction is commenced. Until rules adopted pursuant to this subsection become effective, existing rules adopted under this part and rules adopted pursuant to the authority of ss. 403.91-403.929 shall be deemed authorized under this part and shall remain in full force and effect. Neither the department nor the governing boards are limited or prohibited from amending any such rules.

Section 28. Paragraph (b) of subsection (4) of section 373.705, Florida Statutes, is amended to read:

373.705 Water resource development; water supply development.—

(4)

(b) Water supply development projects that meet the criteria in paragraph (a) and that meet one or more of the following additional criteria shall be given first consideration for state or water management district funding assistance:

1. The project brings about replacement of existing sources in order to help implement a minimum flow or minimum water level;

2. The project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~; or

3. The project reduces or eliminates the adverse effects of competition between legal users and the natural system.

Section 29. Paragraph (f) of subsection (8) of section 373.707, Florida Statutes, is amended to read:

373.707 Alternative water supply development.—

(8)

(f) The governing boards shall determine those projects that will be selected for financial assistance. The governing boards may establish factors to determine project funding; however, significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water is a major component.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

8. Whether the project implements reuse that assists in the

elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~.

9. Whether the county or municipality, or the multiple counties or municipalities, in which the project is located has implemented a high-water recharge protection tax assessment program as provided in s. 193.625.

Section 30. Subsection (4) of section 373.709, Florida Statutes, is amended to read:

373.709 Regional water supply planning.—

(4) The South Florida Water Management District shall include in its regional water supply plan water resource and water supply development projects that promote the elimination of wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~.

Section 31. Effective July 1, 2021, subsection (3) of section 373.807, Florida Statutes, is amended to read:

373.807 Protection of water quality in Outstanding Florida Springs.—By July 1, 2016, the department shall initiate assessment, pursuant to s. 403.067(3), of Outstanding Florida Springs or spring systems for which an impairment determination has not been made under the numeric nutrient standards in effect for spring vents. Assessments must be completed by July 1, 2018.

(3) As part of a basin management action plan that includes an Outstanding Florida Spring, the department, ~~the Department of Health,~~ relevant local governments, and relevant local public and private wastewater utilities shall develop an onsite sewage treatment and disposal system remediation plan for a spring if the department determines onsite sewage treatment and disposal systems within a priority focus area contribute at least 20

percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve the total maximum daily load. The plan shall identify cost-effective and financially feasible projects necessary to reduce the nutrient impacts from onsite sewage treatment and disposal systems and shall be completed and adopted as part of the basin management action plan no later than the first 5-year milestone required by subparagraph (1)(b)8. The department is the lead agency in coordinating the preparation of and the adoption of the plan. The department shall:

(a) Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems; and

(b) Develop a public education plan to provide area residents with reliable, understandable information about onsite sewage treatment and disposal systems and springs.

In addition to the requirements in s. 403.067, the plan shall include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for an onsite sewage treatment and disposal system or group of systems within a priority focus area that contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve a total maximum daily load. For these systems, the department shall include in the plan a priority ranking for each system or group of systems that requires remediation and shall award funds to implement the remediation projects contingent on an appropriation in the

General Appropriations Act, which may include all or part of the costs necessary for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, initial connection to a central sewerage system, or other action. In awarding funds, the department may consider expected nutrient reduction benefit per unit cost, size and scope of project, relative local financial contribution to the project, and the financial impact on property owners and the community. The department may waive matching funding requirements for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

Section 32. Paragraph (k) of subsection (1) of section 376.307, Florida Statutes, is amended to read:

376.307 Water Quality Assurance Trust Fund.—

(1) The Water Quality Assurance Trust Fund is intended to serve as a broad-based fund for use in responding to incidents of contamination that pose a serious danger to the quality of groundwater and surface water resources or otherwise pose a serious danger to the public health, safety, or welfare. Moneys in this fund may be used:

(k) For funding activities described in s. 403.086(10) ~~s. 403.086(9)~~ which are authorized for implementation under the Leah Schad Memorial Ocean Outfall Program.

Section 33. Paragraph (i) of subsection (2), paragraph (b) of subsection (4), paragraph (j) of subsection (7), and paragraph (a) of subsection (9) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(11) ~~403.086(10)~~, as applicable.

(4) REMOVAL OF DESIGNATION.—

(b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:

1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(l);

2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

3. A local government has adopted a resolution at a public

hearing recommending the removal of the designation.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and s. 403.086(11) ~~403.086(10)~~, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in

compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.

Section 34. Effective July 1, 2021, subsections (7) and (18) of section 381.006, Florida Statutes, are amended to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

~~(7) An onsite sewage treatment and disposal function.~~

(17)~~(18)~~ A food service inspection function for domestic violence centers that are certified by the Department of Children and Families and monitored by the Florida Coalition Against Domestic Violence under part XII of chapter 39 and group care homes as described in subsection (15) ~~(16)~~, which shall be conducted annually and be limited to the requirements in department rule applicable to community-based residential facilities with five or fewer residents.

The department may adopt rules to carry out the provisions of this section.

Section 35. Effective July 1, 2021, subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may ~~shall~~ not exceed $500 for each violation, for a violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of ~~any of the provisions of~~ chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 36. Effective July 1, 2021, subsection (1) of section 381.0064, Florida Statutes, is amended to read:

381.0064 Continuing education courses for persons installing or servicing septic tanks.—

(1) The Department of Environmental Protection ~~Health~~ shall establish a program for continuing education which meets the purposes of ss. 381.0101 and 489.554 regarding the public health and environmental effects of onsite sewage treatment and disposal systems and any other matters the department determines desirable for the safe installation and use of onsite sewage treatment and disposal systems. The department may charge a fee to cover the cost of such program.

Section 37. Effective July 1, 2021, paragraph (d) of subsection (7), subsection (8), and paragraphs (b), (c), and (d) of subsection (9) of section 381.00651, Florida Statutes, are amended to read:

381.00651 Periodic evaluation and assessment of onsite sewage treatment and disposal systems.—

(7) The following procedures shall be used for conducting evaluations:

(d) *Assessment procedure.*—All evaluation procedures used by a qualified contractor shall be documented in the environmental health database of the Department of Environmental Protection ~~Health~~. The qualified contractor shall provide a copy of a written, signed evaluation report to the property owner upon completion of the evaluation and to the county health department within 30 days after the evaluation. The report must ~~shall~~ contain the name and license number of the company providing the report. A copy of the evaluation report shall be retained by the local county health department for a minimum of 5 years and until a subsequent inspection report is filed. The front cover of the report must identify any system failure and include a clear and conspicuous notice to the owner that the owner has a

right to have any remediation of the failure performed by a qualified contractor other than the contractor performing the evaluation. The report must further identify any crack, leak, improper fit, or other defect in the tank, manhole, or lid, and any other damaged or missing component; any sewage or effluent visible on the ground or discharging to a ditch or other surface water body; any downspout, stormwater, or other source of water directed onto or toward the system; and any other maintenance need or condition of the system at the time of the evaluation which, in the opinion of the qualified contractor, would possibly interfere with or restrict any future repair or modification to the existing system. The report shall conclude with an overall assessment of the fundamental operational condition of the system.

(8) The county health department, in coordination with the department, shall administer any evaluation program on behalf of a county, or a municipality within the county, that has adopted an evaluation program pursuant to this section. In order to administer the evaluation program, the county or municipality, in consultation with the county health department, may develop a reasonable fee schedule to be used solely to pay for the costs of administering the evaluation program. Such a fee schedule shall be identified in the ordinance that adopts the evaluation program. When arriving at a reasonable fee schedule, the estimated annual revenues to be derived from fees may not exceed reasonable estimated annual costs of the program. Fees shall be assessed to the system owner during an inspection and separately identified on the invoice of the qualified contractor. Fees shall be remitted by the qualified contractor to the county

health department. The county health department's administrative responsibilities include the following:

(a) Providing a notice to the system owner at least 60 days before the system is due for an evaluation. The notice may include information on the proper maintenance of onsite sewage treatment and disposal systems.

(b) In consultation with the department ~~of Health~~, providing uniform disciplinary procedures and penalties for qualified contractors who do not comply with the requirements of the adopted ordinance, including, but not limited to, failure to provide the evaluation report as required in this subsection to the system owner and the county health department. Only the county health department may assess penalties against system owners for failure to comply with the adopted ordinance, consistent with existing requirements of law.

(9)

(b) Upon receipt of the notice under paragraph (a), the department ~~of Environmental Protection~~ shall, within existing resources, notify the county or municipality of the potential use of, and access to, program funds under the Clean Water State Revolving Fund or s. 319 of the Clean Water Act, provide guidance in the application process to receive such moneys, and provide advice and technical assistance to the county or municipality on how to establish a low-interest revolving loan program or how to model a revolving loan program after the low-interest loan program of the Clean Water State Revolving Fund. This paragraph does not obligate the department ~~of Environmental Protection~~ to provide any county or municipality with money to fund such programs.

(c) The department ~~of Health~~ may not adopt any rule that alters ~~the provisions of~~ this section.

(d) The department ~~of Health~~ must allow county health departments and qualified contractors access to the environmental health database to track relevant information and assimilate data from assessment and evaluation reports of the overall condition of onsite sewage treatment and disposal systems. The environmental health database must be used by contractors to report each service and evaluation event and by a county health department to notify owners of onsite sewage treatment and disposal systems when evaluations are due. Data and information must be recorded and updated as service and evaluations are conducted and reported.

Section 38. Effective July 1, 2021, paragraph (g) of subsection (1) of section 381.0101, Florida Statutes, is amended to read:

381.0101 Environmental health professionals.—

(1) DEFINITIONS.—As used in this section:

(g) "Primary environmental health program" means those programs determined by the department to be essential for providing basic environmental and sanitary protection to the public. At a minimum, these programs shall include food protection program work ~~and onsite sewage treatment and disposal system evaluations~~.

Section 39. Section 403.08601, Florida Statutes, is amended to read:

403.08601 Leah Schad Memorial Ocean Outfall Program.—The Legislature declares that as funds become available the state may assist the local governments and agencies responsible for

implementing the Leah Schad Memorial Ocean Outfall Program pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from other sources provided for in law, the General Appropriations Act, from gifts designated for implementation of the plan from individuals, corporations, or other entities, or federal funds appropriated by Congress for implementation of the plan, may be deposited into an account of the Water Quality Assurance Trust Fund.

Section 40. Section 403.0871, Florida Statutes, is amended to read:

403.0871 Florida Permit Fee Trust Fund.—There is established within the department a nonlapsing trust fund to be known as the "Florida Permit Fee Trust Fund." All funds received from applicants for permits pursuant to ss. 161.041, 161.053, 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter and chapter 161. In no case shall funds from the Florida Permit Fee Trust Fund be used for salary increases without the approval of the Legislature.

Section 41. Paragraph (a) of subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including

electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with ~~the provisions of~~ this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay between January 15 and April 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with the department's emissions computation and reporting rules. The annual fee shall only apply

to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit; provided, however, that:

1. The license fee factor is $25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35.

2. The amount of each regulated air pollutant in excess of 4,000 tons per year emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3. If the department has not received the fee by March 1 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If the fee is not postmarked by April 1 of the calendar year, the

department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and may ~~shall~~ not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section may ~~shall~~ not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 may ~~shall~~ not exceed $50 per year.

5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary

source air-operation permit program under s. 403.0873. The department shall, however, require fees pursuant to s. 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

Section 42. Paragraph (d) of subsection (3) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(3)

(d) The department may adopt rules to administer this subsection. However, the department is not required to submit such rules to the Environmental Regulation Commission for approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s. 403.087(6)(a)~~, permit fee caps for solid waste management facilities shall be prorated to reflect the extended permit term authorized by this subsection.

Section 43. Subsections (8) and (21) of section 403.861, Florida Statutes, are amended to read:

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(8) Initiate rulemaking to increase each drinking water permit application fee authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part and adopted by rule to ensure that such fees are increased to reflect, at a minimum, any upward adjustment in the Consumer Price Index compiled by the United

States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised.

(a) The department shall establish by rule the inflation index to be used for this purpose. The department shall review the drinking water permit application fees authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5 years and shall adjust the fees upward, as necessary, within the established fee caps to reflect changes in the Consumer Price Index or similar inflation indicator. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. The department shall also review the drinking water operation license fees established pursuant to paragraph (7)(b) at least once every 5 years to adopt, as necessary, the same inflationary adjustments provided for in this subsection.

(b) The minimum fee amount shall be the minimum fee prescribed in this section, and such fee amount shall remain in effect until the effective date of fees adopted by rule by the department.

(21)(a) Upon issuance of a construction permit to construct a new public water system drinking water treatment facility to provide potable water supply using a surface water that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s.~~

~~403.061(29)(b)~~.

(b) For existing public water system drinking water treatment facilities that use a surface water as a treated potable water supply, which surface water classification does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.

Section 44. Effective July 1, 2021, subsection (1) of section 489.551, Florida Statutes, is amended to read:

489.551 Definitions.—As used in this part:

(1) "Department" means the Department of Environmental Protection ~~Health~~.

Section 45. Paragraph (b) of subsection (10) of section 590.02, Florida Statutes, is amended to read:

590.02 Florida Forest Service; powers, authority, and duties; liability; building structures; Withlacoochee Training Center.—

(10)

(b) The Florida Forest Service may delegate to a county, municipality, or special district its authority:

1. As delegated by the Department of Environmental Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and 403.081, to manage and enforce regulations pertaining to the burning of yard trash in accordance with s. 590.125(6).

2. To manage the open burning of land clearing debris in accordance with s. 590.125.

Section 46. The Division of Law Revision is directed to replace the phrase "adoption of the rules identified in

paragraph (e)" as it is used in the amendment made by this act to s. 381.0065, Florida Statutes, with the date such rules are adopted, as provided by the Department of Environmental Protection pursuant to s. 381.0065(4)(e), Florida Statutes, as amended by this act.

Section 47. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020.

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 712
INTRODUCER:	Appropriations Committee; Community Affairs Committee; and Senators Mayfield, Harrell, and Albritton
SUBJECT:	Environmental Resource Management
DATE:	February 24, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga/Rogers	Ryon	CA	**Fav/CS**
2.	Reagan	Betta	AEG	**Recommend: Fav/CS**
3.	Reagan	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 712 includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly referred to as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics. Note that rules that cost at least $1 million over the first five years of implementation require legislative ratification.[1] Therefore, several of these provisions may not be fully effectuated without additional legislation. The bill also includes topics relating to the appointment of the Secretary of the DEP, bottled water, and the rights of nature; however, these topics do not require rulemaking.

The DEP will incur indeterminate additional costs in developing multiple new regulatory programs, updating basin management action plans (BMAPs), promulgating rules, and developing, submitting, and reviewing new reports. The DEP can absorb these costs within existing resources. The implementation of the real-time water quality monitoring and wastewater grant programs will have a negative fiscal impact on the DEP, but these provisions are subject to appropriations. See Section V.

Regarding OSTDSs, the bill:

- Transfers the regulation of OSTDSs from the Department of Health (DOH) to the DEP.

[1] Section 120.541(3), F.S.

- Directs the DEP to adopt rules to locate OSTDSs by July 1, 2022:
  - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
  - Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.
- To meet the requirements of a TMDL, the bill requires DEP to implement a fast-track approval process for the use in this state of American National Standards Institute 245 systems approved by NSF International before July 1, 2020.
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and the Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within BMAPs if the DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.

Regarding wastewater, the bill:

- Creates a wastewater grant program, subject to appropriation, within the DEP that requires a 50 percent local match of funds. Eligible projects include:
  - Projects to upgrade OSTDSs.
  - Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
  - Projects to connect OSTDSs to central sewer facilities.
- Requires the DEP to submit an annual report to the Governor and the Legislature on the projects funded by the wastewater grant program.
- Provides incentives for wastewater projects that promote efficiency by coordinating wastewater infrastructure expansions with other infrastructure improvements.
- Gives priority in the state revolving loan fund for eligible wastewater projects that meet the additional requirements of the bill to prevent leakage, overflows, infiltration, and inflow.
- Requires the DEP to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.
- Authorizes the DEP to require public utilities seeking a wastewater discharge permit to file reports and other data regarding utility costs:
  - Such reports may include data related to expenditures on pollution mitigation and prevention, including the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration.
  - The DEP is required to adopt rules related to these requirements.
- Requires local governments to develop wastewater treatment plans within BMAPs if the DEP determines that domestic wastewater facilities contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.
- Prohibits the DEP from requiring a higher cost option for a wastewater project within a BMAP if it achieves the same nutrient load reduction as a lower-cost option and allows a regulated entity to choose a different cost option if it complies with the pollutant reduction

requirements of an adopted total maximum daily load (TMDL) and provides additional benefits.

- Adds to the DEP's penalty schedule a penalty of $4,000 for failure to survey an adequate portion of a wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. Substantial compliance with certain bill requirements is evidence in mitigation for penalty assessment.
- Increases the cap on the DEP's administrative penalties from $10,000 to $50,000.
- Doubles the wastewater administrative penalties.
- Prohibits facilities for sanitary sewage disposal from disposing of waste into the Indian River Lagoon and its tributaries without providing advanced waste treatment.
- Requires facilities for sanitary sewage disposal to provide for a power outage contingency plan for collection systems and pump stations.
- Requires facilities for sanitary sewage to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment.
  - The bill requires studies, plans, and reports related to this requirement (the action plan).
  - The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.
- Authorizes certain facilities for sanitary sewage to receive 10-year permits if they are meeting the goals in their action plan for inflow, infiltration, and leakage prevention.
- Makes the following changes relating to water pollution operation permits:
  - The permit must require the investigation or surveying of the wastewater collection system to determine pipe integrity.
  - The permit must require an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule, including any deviation from annual expenditures related to their action plan.

Regarding stormwater, the bill:

- Requires the DEP and the Water Management Districts (WMDs), by January 1, 2021, to initiate rulemaking, including updates to the Environmental Resource Permit Applicant's Handbooks, to update their stormwater rules and includes criteria that the DEP must consider as part of rule development.
- Requires the DEP, by January 1, 2021, to evaluate inspection data relating to entities that self-certify their stormwater permits and provide the Legislature with recommendations for improvements to the self-certification process.
- Directs the DEP and the Department of Economic Opportunity to include in their model stormwater management program ordinances that target nutrient reduction practices and use green infrastructure.

Regarding agriculture, the bill:

- Requires a cooperative agricultural regional water quality improvement element as part of a BMAP in addition to existing strategies such as best management practices (BMPs). The element will be implemented through cost-sharing projects and authorizes legislative budget requests to fund the projects.
- Requires the Department of Agriculture and Consumer Services (DACS) to collect and provide to the DEP fertilization and nutrient records from each agriculture producer enrolled in best management practices.

- Requires the DACS to perform onsite inspections of each agricultural producer that enrolls in a best management practice every two years and requires the DACS to initially prioritize the inspection of agricultural producers located in the BMAPs for Lake Okeechobee, the Indian River Lagoon, the Caloosahatchee River and Estuary, and Silver Springs.
- Authorizes the DACS and institutions of higher education with agricultural research programs to develop research plans and legislative budget requests relating to the evaluation and improvement of agricultural best management practices and agricultural nutrient runoff reduction projects.

Regarding biosolids, the bill:

- Requires the DEP to adopt rules for biosolids management.
- Clarifies that local governments with biosolids ordinances may retain those ordinances until repealed.
- Requires that all biosolids application sites meet the DEP rules in effect at the time of the renewal of the biosolids application site permit or facility permit, effective July 1, 2020.
- Provides requirements for biosolids application site permittees to include a prohibition on the application of biosolids within 15 centimeters of the seasonal high-water table, adoption of agricultural BMPs, and increased monitoring requirements. Many of these requirements are repealed once the DEP rules go into effect.

The bill also requires the DEP to work with the University of Florida Institute of Food and Agricultural Sciences and regulated entities to consider the adoption by rule of BMPs for nutrient impacts from golf courses.

The bill requires the DEP to submit several annual reports to the Governor and the Legislature and to the Office of Economic and Demographic Research.

The bill revises the number of Cabinet members that are required to concur with the Governor to approve the secretary of the DEP from three members to one member.

The bill requires a unanimous vote by a WMD governing board to approve a consumptive use permit to use water derived from a spring for bottled water. This provision expires on June 30, 2022. The bill also requires the DEP, in coordination with the WMDs, to conduct a study on the bottled water industry in the state.

The bill also creates a real-time water quality monitoring program, subject to appropriation, within the DEP.

Finally, the bill prohibits local governments from providing legal rights to any plant, animal, body of water, or other part of the natural environment unless otherwise specifically authorized by state law or the State Constitution.

The effective date of the bill is July 1, 2020, except as otherwise expressly provided in this act.

II. Present Situation:

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.

Phosphorus and nitrogen are derived from natural and human-made sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.[2]

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.[3]

Blue-Green Algae Task Force

In January of 2019, Governor DeSantis issued the comprehensive Executive Order Number 19-12.[4] The order directed the Department of Environmental Protection (DEP) to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state.[5] The task force's responsibilities include identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued a consensus document on October 11, 2019.[6] To the extent that the task force has issued recommendations on topics addressed in this Present Situation, those recommendations are included in the relevant section.

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.[7] Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water

[2] U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, https://www.epa.gov/nutrientpollution/sources-and-solutions (last visited Dec. 2, 2019).
[3] EPA, *The Problem*, https://www.epa.gov/nutrientpollution/problem (last visited Dec. 2, 2019).
[4] State of Florida, 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.
[5] *Id.* at 2; DEP, *Blue-Green Algae Task Force*, https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force (last visited Dec. 2, 2019).
[6] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[7] DEP, *Total Maximum Daily Loads Program*, https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program (last visited Dec. 2, 2019).

Act, the DEP is required to establish a TMDL for impaired waterbodies.[8] A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.[9] Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.[10]

Basin Management Action Plans and Best Management Practices

The DEP is the lead agency in coordinating the development and implementation of TMDLs.[11] Basin management action plans (BMAPs) are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

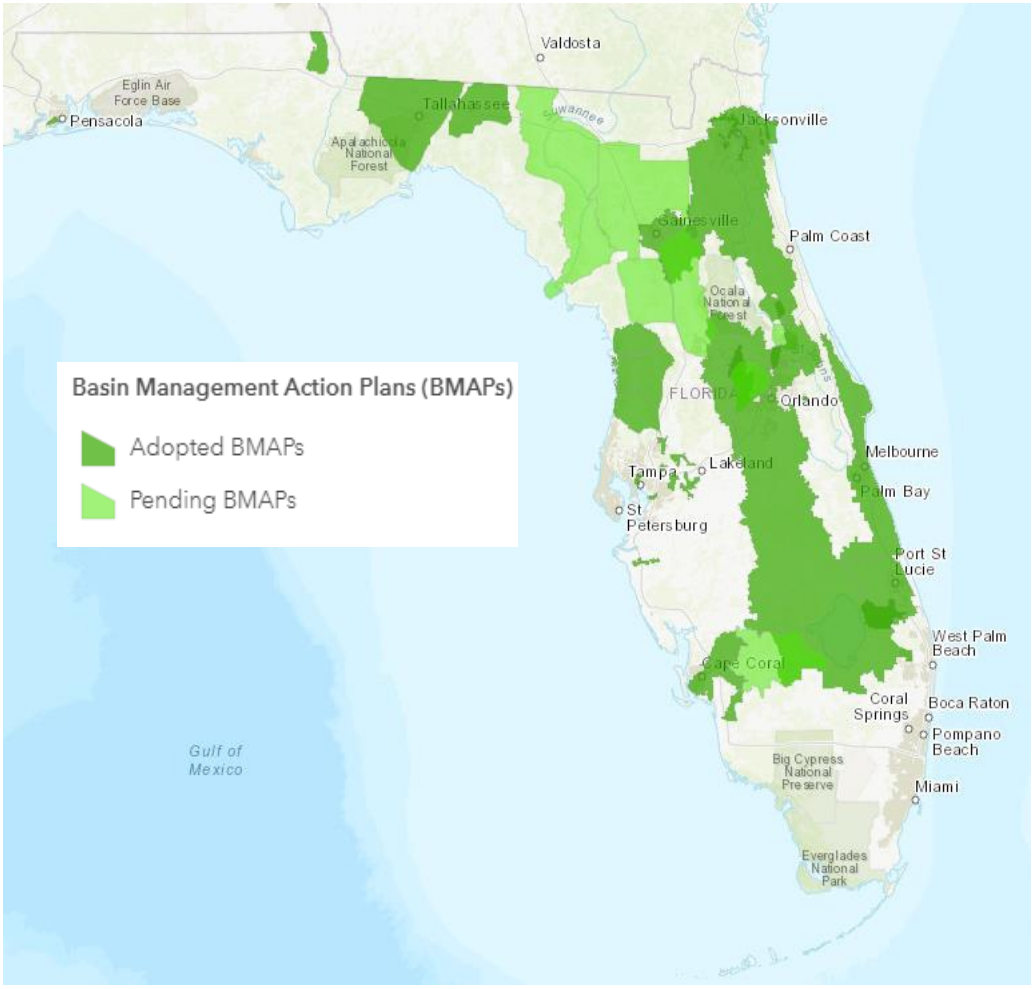
- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.[12]

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.[13] Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the public to collectively determine and share water quality cleanup responsibilities collectively.[14] BMAPs are adopted by secretarial order.[15]

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of

[8] Section 403.067(1), F.S.
[9] Section 403.031(21), F.S.
[10] Fla. Admin. Code R. 62-620.200(37). "Point source" is defined as "any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged." Nonpoint sources of pollution are sources of pollution that are not point sources. Nonpoint sources can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.
[11] Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.
[12] Section 403.067(7), F.S.
[13] *Id*.
[14] DEP, *Basin Management Action Plans (BMAPs)*, https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps (last visited Dec. 4, 2019).
[15] Section 403.067(7)(a)5., F.S.

progress toward these milestones must be conducted every five years, and revisions to the BMAP must be made as appropriate.[16]



Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.[17] A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district (WMD) based on a failure to implement these requirements.[18] BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and to help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.[19]

[16] Section 403.067(7)(a)6., F.S.
[17] Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[18] Section 403.067(7)(b)2.h., F.S.
[19] DEP, *NPDES Stormwater Program*, https://floridadep.gov/Water/Stormwater (last visited Dec. 2, 2019).

Currently, BMAPs are adopted or pending for a significant portion of the state and will continue to be developed as necessary to address water quality impairments. The graphic above shows the state's adopted and pending BMAPs.[20]

The Blue-Green Algae Task Force made the following recommendations for BMAPs:

- Include regional storage and treatment infrastructure in South Florida watersheds.
- Consider land use changes, legacy nutrients, and the impact of the BMAP on downstream waterbodies.
- Develop a more targeted approach to project selection.
- Evaluate project effectiveness through monitoring.[21]

Agricultural BMPs

Agricultural best management practices (BMPs) are practical measures that agricultural producers undertake to reduce the impacts of fertilizer and water use and otherwise manage the landscape to further protect water resources. BMPs are developed using the best available science with economic and technical consideration and, in certain circumstances, can maintain or enhance agricultural productivity.[22] BMPs are implemented by the Department of Agriculture and Consumer Services (DACS). Since the BMP program was implemented in 1999,[23] the DACS has adopted nine BMP manuals and is currently developing two more that cover nearly all major agricultural commodities in Florida. According to the annual report on BMPs prepared by the DACS, approximately 54 percent of agricultural acreage is enrolled in the DACS BMP program statewide.[24] Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs[25] and those who enroll in the BMP program become eligible for technical assistance and cost-share funding for BMP implementation. To enroll in the BMP program, producers must meet with the Office of Agricultural Water Policy (OAWP) to determine the BMPs that are applicable to their operation and submit a Notice of Intent to Implement the BMPs, along with the BMP checklist from the applicable BMP manual.[26] Within a BMAP, management strategies, including BMPs and water quality monitoring, are enforceable.[27]The University of Florida's Institute of Food and

[20] DEP, *Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map*, https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans (last visited Dec. 5, 2019).
[21] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 2-4 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[22] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).
[23] The program was voluntary from 1999-2005. In 2005 the Florida Legislature modified the law requiring agricultural producers to adopt BMPs or conduct water quality monitoring.
[24] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 2, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).
[25] Section 403.067(7), F.S.
[26] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).
[27] Section 403.067(7)(d), F.S.

Agricultural Sciences (IFAS) is heavily involved in the adoption and implementation of BMPs. The IFAS provides expertise to both the DACS and agriculture producers, and has extension offices throughout Florida. The IFAS puts on summits and workshops on BMPs,[28] conducts research to issue recommendations for improving BMPs,[29] and issues training certificates for BMPs that require licenses such as Green Industry BMPs.[30]

For agriculture and BMPs, the Blue-Green Algae Task Force recommended:
- Increasing BMP enrollment.
- Improving records and additional data collection.
- Accelerating updates to BMP manuals.[31]

BMAPs for Outstanding Florida Springs

In 2016, the Legislature passed the Florida Springs and Aquifer Protection Act, which identified 30 "Outstanding Florida Springs" (OFS) that have additional statutory protections and requirements.[32] Key aspects of the Springs and Aquifer Protection Act relating to water quality include:
- The designation of a priority focus area for each OFS. A priority focus area of an OFS means the area or areas of a basin where the Florida Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the DEP in consultation with the appropriate WMDs, and delineated in a BMAP;[33]
- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan[34] if it has been determined that OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL;
- A 20-year timeline for implementation of the TMDL, including 5-, 10-, and 15-year targets;[35] and
- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.[36]

The DEP is the lead agency in coordinating the preparation and adoption of the OSTDS remediation plan. The OSTDS remediation plan must include options for repair, upgrade, replacement, drainfield modification, the addition of effective nitrogen reducing features,

[28] UF/IFAS, *BMP Resource*, *available at* https://bmp.ifas.ufl.edu/ (last visited Dec. 5, 2019).
[29] UF/IFAS Everglades Research & Education Center, *Best Management Practices & Water Resources*, *available at* https://erec.ifas.ufl.edu/featured-3-menus/research-/best-management-practices--water-resources/ (last visited Dec. 5, 2019).
[30] UF/IFAS Florida-Friendly Landscaping, *GI-BMP Training Program Overview*, *available at* https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm (last visited Dec. 5, 2019).
[31] *Id*.
[32] Chapter 2016-1, Laws of Fla.; *see* s. 373.802, F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.
[33] Section 373.802(5), F.S.
[34] Commonly called a “septic remediation plan.”
[35] Section 373.807, F.S.
[36] Section 373.811, F.S.

connection to a central sewerage system, or other action for a sewage system or group of systems.[37] The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.[38]

In June 2018, the DEP adopted 13 BMAPs, addressing all 24 nitrogen-impaired OFS.[39] Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAPs.[40] These alleged deficiencies include lack of specificity in the required list of projects and programs identified to implement a TMDL, lack of detail in cost estimates, incomplete or unclear strategies for nutrient reduction, and failure to account for population growth and agricultural activity.

Wastewater Treatment Facilities

The proper treatment and disposal or reuse of domestic wastewater is an important part of protecting Florida's water resources. The majority of Florida's domestic wastewater is controlled and treated by centralized treatment facilities regulated by the DEP. Florida has approximately 2,000 permitted domestic wastewater treatment facilities.[41]

Chapter 403, F.S., requires that any facility or activity which discharges waste into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit from the DEP.[42] Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by the DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.[43]

Under section 402 of the Clean Water Act, any discharge of a pollutant from a point source to surface waters (i.e., the navigable waters of the United States or beyond) must obtain a National Pollution Discharge Elimination System (NPDES) permit.[44] NPDES permit requirements for most wastewater facilities or activities (domestic or industrial) that discharge to surface waters are incorporated into a state-issued permit, thus giving the permittee one set of permitting requirements rather than one state and one federal permit.[45] The DEP issues operation permits for a period of five years for facilities regulated under the NPDES program and up to 10 years for other domestic wastewater treatment facilities meeting certain statutory requirements.[46]

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[37] Section 373.807(3), F.S.
[38] *Id*.
[39] DEP, *Springs*, https://floridadep.gov/springs (last visited Nov. 26, 2019).
[40] *Our Santa Fe River, Inc., et. al. v. DEP*, No. 18-1601, DEP No. 18-2013; *Sierra Club v. DEP*, No. 17-1175, DEP No. 18-0204; *Friends of Wekiva River, Inc. v. DEP*, No. 18-1065, DEP No. 18-0217; *Thomas Greenhalgh v. DEP*, No. 17-1165, DEP No. 18-0204; *Paul Still v. DEP*, No. 18-1061; *Save the Manatee Club, Inc. v. DEP*, No. 17-1167, DEP No. 18-0206; *Silver Springs Alliance, Inc. and Rainbow River Conservation, Inc. v. DEP*, No. 18-1060, DEP No. 18-0211.
[41] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Dec. 2, 2019).
[42] Section 403.087, F.S.
[43] DEP, *Wastewater Permitting*, https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting (last visited Dec. 2, 2019).
[44] 33 U.S.C. s. 1342.
[45] Sections 403.061 and 403.087, F.S.
[46] Section 403.087(3), F.S.

In its 2016 Report Card for Florida's Infrastructure, the American Society of Civil Engineers reported that the state's wastewater system is increasing in age and the condition of installed treatment and conveyance systems is declining.[47] As existing infrastructure ages, Florida utilities are placing greater emphasis on asset management systems to maintain service to customers. Population growth, aging infrastructure, and sensitive ecological environments are increasing the need to invest in Florida's wastewater infrastructure.[48]

Advanced Waste Treatment

Under Florida law, facilities for sanitary sewage disposal are required to provide for advanced waste treatment, as deemed necessary by the DEP.[49] The standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.[50] The standard also requires high-level disinfection.[51]

Nutrient or Contaminant	Maximum Concentration Annually
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus	1 mg/L

Facilities for sanitary sewage disposal are prohibited from disposing of waste into certain waters in the state without providing advanced waste treatment approved by the DEP.[52] Specifically, Tampa Bay is viewed as a success story for this type of prohibition.

> [Tampa Bay is] one of the few estuaries in the U.S. that has shown evidence of improving environmental conditions. These water-quality improvements have been due, in large part, to upgrades in wastewater-treatment practices at municipal wastewater-treatment plants in the region. Since 1980, all wastewater-treatment plants that discharge to the bay or its tributaries have been required by state legislation to meet advanced wastewater-treatment standards, a step that has reduced the annual nutrient loads from these sources by about 90 percent.[53]

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[47] American Society of Civil Engineers, *Report Card for Florida's Infrastructure* (2016), *available at* https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf.
[48] *Id*.
[49] Section 403.086(2), F.S.
[50] Section 403.086(4), F.S.
[51] Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).
[52] Section 403.086(1)(c), F.S. Facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment approved by DEP. This prohibition does not apply to facilities permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of the named waters; or to facilities permitted to discharge to the non-tidally influenced portions of the Peace River.
[53] U.S. Department of the Interior and U.S. Geological Survey, *Integrating Science and Resource Management in Tampa Bay, Florida*, 110 (2011), *available at* https://pubs.usgs.gov/circ/1348/pdf/Chapter%205_105-156.pdf (internal citations omitted).

Sanitary Sewer Overflows, Leakages, and Inflow and Infiltration

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause a sanitary sewer overflow (SSO). Any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system is a SSO.[54] A SSO may subject the owner or operator of a facility to civil penalties of not more than $10,000 for each offense, a criminal conviction or fines, and additional administrative penalties.[55] Each day during the period in which a violation occurs constitutes a separate offense.[56] However, administrative penalties are capped at $10,000.[57]

A key concern with SSOs entering rivers, lakes, or streams is their negative effect on water quality. In addition, because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access, food that has been contaminated, inhalation, and skin absorption. The Department of Health (DOH) issues health advisories when bacteria levels present a risk to human health and may post warning signs when bacteria affect public beaches or other areas where there is a risk of human exposure.[58]

Reduction of SSOs can be achieved through:
- Cleaning and maintaining the sewer system;
- Reducing inflow and infiltration through rehabilitation and repairing broken or leaking lines;
- Enlarging or upgrading sewer, pump station, or sewage treatment plant capacity and/or reliability; and
- Constructing wet weather storage and treatment facilities to treat excess flows.[59]

Inflow and Infiltration (I&I) occurs when groundwater and/or rainwater enters the sanitary sewer system and ends up at the wastewater treatment facility, necessitating its treatment as if it were wastewater.[60] I&I can be caused by groundwater infiltrating the sewer system through faulty pipes or infrastructure, or any inflows of rainwater or non-wastewater into the sewer system.

I&I is a major cause of SSOs in Florida.[61] When domestic wastewater facilities are evaluated for permit renewal, collection systems are not evaluated for issues such as excessive

[54] DEP, *Sanitary Sewer Overflows (SSOs), available at* https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf (last visited Dec. 4, 2019).
[55] Sections 403.121 and 403.141, F.S.
[56] *Id*.
[57] Section 403.121(2)(b), (8), and (9), F.S.
[58] DEP, *SSOs, available at* https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf.
[59] *Id*.
[60] City of St. Augustine, *Inflow & Infiltration Elimination Program*, https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program (last visited Dec. 6, 2019).
[61] *See generally* RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), *available at* https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.

infiltration/inflow unless problems result at the treatment plant.[62] Another major cause of SSOs is the loss of electricity to the infrastructure for the collection and transmission of wastewater, such as pump stations, especially during storms.[63] Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.[64] All other pump stations must have emergency pumping capability through one of three specified arrangements.[65] These requirements for emergency pumping capacity only apply to domestic wastewater collection/transmission facilities existing after November 6, 2003, unless facilities existing prior to that date are modified.[66]

The Blue-Green Algae Task Force made the following recommendations relating to SSOs:

- Emergency back-up capabilities should be required for all lift stations constructed prior to 2003.
- The DEP and wastewater facilities should take a more proactive approach to infiltration and inflow issues.[67]

Wastewater Asset Management

Asset management is the practice of managing infrastructure capital assets to minimize the total cost of owning and operating these assets while delivering the desired service levels.[68] Many utilities use asset management to pursue and achieve sustainable infrastructure. A high-performing asset management program includes detailed asset inventories, operation and maintenance tasks, and long-range financial planning.[69]

Each utility is responsible for making sure that its system stays in good working order, regardless of the age of its components or the availability of additional funds.[70] Asset management programs with good data can be the most efficient method of meeting this challenge. Some key steps for asset management are making an inventory of critical assets, evaluating the condition and performance of such assets, and developing plans to maintain, repair, and replace assets and

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[62] Fla. Admin. Code R. 62-600.735; *see* Fla. Admin. Code R. 62-600.200. "Collection/transmission systems" are defined as "sewers, pipelines, conduits, pumping stations, force mains, and all other facilities used for collection and transmission of wastewater from individual service connections to facilities intended for the purpose of providing treatment prior to release to the environment."

[63] *See generally* RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), *available at* https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.

[64] Fla. Admin. Code R. 62-604.400.

[65] *Id.*

[66] Fla. Admin. Code R. 62-604.100.

[67] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 7 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

[68] EPA, *Sustainable Water Infrastructure - Asset Management for Water and Wastewater Utilities*, https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities (last visited Dec 9, 2019).

[69] *Id*.

[70] *Id*.

to fund these activities.[71] The United States Environmental Protection Agency (EPA) provides guidance and reference manuals for utilities to aid in developing asset management plans.[72]

Many states, including Florida, provide financial incentives for the development and implementation of an asset management plan when requesting funding under a State Revolving Fund or other state funding mechanism.[73] Florida's incentives include priority scoring,[74] reduction of interest rates,[75] principal forgiveness for financially disadvantaged small communities,[76] and eligibility for small community wastewater facilities grants.[77]

In 2016, the Legislature authorized the Public Service Commission (PSC) to allow a utility to create a utility reserve fund for repair and replacement of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The utility reserve fund would be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit.

The PSC adopted rules governing the implementation, management, and use of the fund, including expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for the PSC authorization before fund disbursements.[78] The PSC requires an applicant to provide a capital improvement plan or an asset management plan in seeking authorization to create a utility reserve fund.[79]

The Clean Water State Revolving Fund Program

Florida's Clean Water State Revolving Fund (CWSRF) is a federal-state partnership that provides communities a permanent, independent source of low-cost financing for a wide-range of water quality infrastructure projects.[80] The CWSRF is funded through money received from federal grants as well as state contributions, which then "revolve" through the repayment of previous loans and interest earned. While these programs offer loans, grant-like funding is also available for qualified small, disadvantaged communities, which reduces the amount owed on loans by the percentage for which the community qualifies.

The CWSRF provides low-interest loans to local governments to plan, design, and build or upgrade wastewater, stormwater, and nonpoint source pollution prevention projects. Certain

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[71] *Id*.
[72] EPA, *Asset Management: A Best Practices Guide* (2008), *available at* https://nepis.epa.gov/Exe/ZyPDF.cgi/P1000LP0.PDF?Dockey=P1000LP0.PDF; EPA, *Reference Guide for Asset Management Tools/Asset Management Plan Components and Implementation Tools for Small and Medium Sized Drinking Water and Wastewater Systems* (May 2014), *available at* https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf.
[73] EPA, *State Asset Management Initiatives* (Aug. 2012), *available at* https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf.
[74] Fla. Admin. Code R. 62-503.300(e).
[75] Fla. Admin. Code R. 62-503.300(5)(b)1. and 62-503.700(7).
[76] Fla. Admin. Code R. 62-503.500(4).
[77] Fla. Admin. Code R. 62-505.300(d) and 62-505.350(5)(c).
[78] Fla. Admin. Code R. 25-30.444.
[79] Fla. Admin. Code R. 25-30.444(2)(e) and (m).
[80] 33 USC s. 1383; EPA, *CWSRF*, https://www.epa.gov/cwsrf (last visited Jan. 23, 2020); EPA, *Learn about the CWSRF*, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Jan. 23, 2020).

agricultural best management practices may also qualify for funding. Very low interest rate loans, grants, and other discounted assistance for small communities are available. Interest rates on loans are below market rates and vary based on the economic means of the community. Generally, local governments and special districts are eligible loan sponsors.[81] The EPA classifies eleven types of projects that are eligible to receive CWSRF assistance. They include projects for:

- A publicly owned treatment works;
- A public, private, or nonprofit entity to implement a state nonpoint source pollution management program;
- A public, private, or nonprofit entity to develop and implement a conservation and management plan;
- A public, private, or nonprofit entity to construct, repair, or replace decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;
- A public, private, or nonprofit entity to manage, reduce, treat, or recapture stormwater or subsurface drainage water;
- A public entity to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse;
- A public, private, or nonprofit entity to develop and implement watershed projects;
- A public entity to reduce the energy consumption needs for publicly owned treatment works;
- A public, private, or nonprofit entity for projects for reusing or recycling wastewater, stormwater, or subsurface drainage water;
- A public, private, or nonprofit entity to increase the security of publicly owned treatment works; and
- Any qualified nonprofit entity, to provide technical assistance to owners and operators of small and medium sized publicly owned treatment works to plan, develop, and obtain financing for the CWSRF eligible projects and to assist each treatment works in achieving compliance with the Clean Water Act.[82]

Of these eligible projects, the DEP is required to give priority to projects that:

- Eliminate public health hazards;
- Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(9), F.S., regarding domestic wastewater ocean outfalls;
- Assist in the implementation of total maximum daily loads adopted under s. 403.067, F.S.;
- Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;
- Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;
- Promote reclaimed water reuse;
- Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or

[81] DEP, *State Revolving Fund*, https://floridadep.gov/wra/srf (last visited Feb. 11, 2019).
[82] EPA, *Learn about the CWSRF*, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Jan. 23, 2020).

- Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.[83]

Small Community Sewer Construction

The Small Community Sewer Construction Assistance Act is a grant program established as part of the CWSRF program that requires the DEP to award grants to assist financially disadvantaged small communities with their needs for adequate domestic wastewater facilities.[84] Under the program, a financially disadvantaged small community is defined as a county, municipality, or special district[85] with a total population of 10,000 or less, and a per capita income less than the state average per capita income.[86] In 2016, the Legislature included counties and special districts as eligible entities for grants under the program if they otherwise met the definition of a financially disadvantaged small community.[87]

In accordance with rules adopted by the Environmental Regulation Commission, the DEP may provide grants, for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.[88] The rules of the commission must also:

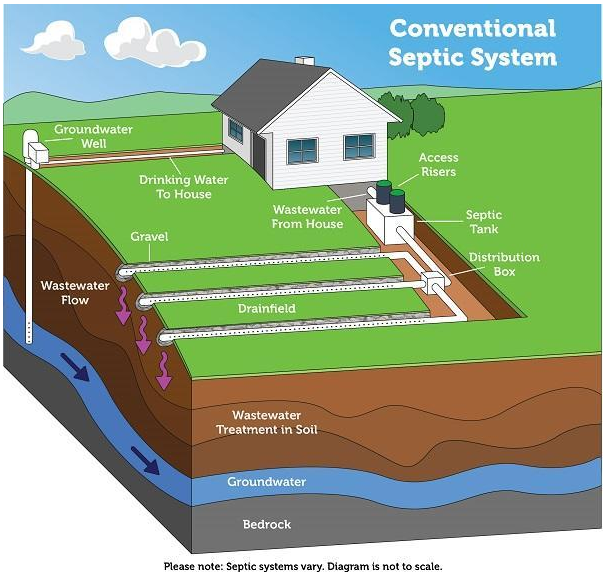
- Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable;
- Require appropriate user charges, connection fees, and other charges to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant;
- Require grant applications to be submitted on appropriate forms with appropriate supporting documentation and require records to be maintained;
- Establish a system to determine eligibility of grant applications;
- Establish a system to determine the relative priority of grant applications, which must consider public health protection and water pollution abatement;
- Establish requirements for competitive procurement of engineering and construction services, materials, and equipment; and
- Provide for termination of grants when program requirements are not met.[89]

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as "septic systems," generally consist of two basic parts: the septic tank and the drainfield.[90] Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where

[83] Section 403.1835(7), F.S.
[84] Sections 403.1835(3)(d) and 403.1838, F.S.
[85] Section 189.012(6), F.S., defines special district; s. 189.012(2) and (3), F.S., define dependent special district and independent special district, respectively.
[86] Section 403.1838(2), F.S.
[87] Chapter 2016-55, Laws of Fla.
[88] Section 403.1838(3)(a), F.S.
[89] Section 403.1838(3)(b), F.S.; Fla. Admin. Code R. Ch. 62-505.
[90] DOH, *Septic System Information and Care*, http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html (last visited Dec. 2, 2019); EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems (last visited Dec. 2, 2019) (showing the graphic provided in the analysis).

anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.[91]



The DOH administers OSTDS programs, develops statewide rules, and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.[92] The DOH regulations focus on construction standards and setback distances. The regulations are primarily designed to protect the public from waterborne illnesses.[93] The DOH also conducts research to evaluate performance, environmental health, and public health effects of OSTDSs. Innovative OSTDS products and technologies must be approved by the DOH.[94]

The DOH and the DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.[95] The DEP has jurisdiction over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by the DEP (unless the DOH grants a variance).[96] In all other circumstances, the DOH regulates OSTDSs.

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[91] *Id.*
[92] Section 381.0065(3), F.S.
[93] DOH, *Overview of Onsite Sewage Treatment and Disposal Systems*, 5 (Aug. 1, 2019), http://floridadep.gov/file/19018/download?token=6r94Bi2B.
[94] Section 381.0065(3), F.S.
[95] *Interagency Agreement between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems* (Sept. 30, 2015), *available at* https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf.
[96] *Id.* at 6-13; s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, https://floridadep.gov/water/domestic-wastewater/content/septic-systems (last visited Dec. 2, 2019).

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.[97] In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.[98] For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.[99] The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[100]

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.[101] This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.[102]

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems).[103] The DOH publishes on its website approved products and resources on advanced systems.[104] Determining which advanced system is the best option can depend on site-specific conditions.

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.[105] Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.[106]

The Blue-Green Algae Task Force made the following recommendations relating to OSTDSs:

- The DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health.
- More post-permitting septic tank inspections should take place.
- Protections for vulnerable areas in the state should be expanded.

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[97] DOH, *Onsite Sewage*, http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html (last visited Dec. 2, 2019).
[98] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/_documents/rrac/2008-11-06.pdf. The report begins on page 56 of the PDF.
[99] *Id*.
[100] *Id*.
[101] DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study*, *Final Report 2008-2015*, 21 (Dec. 2015), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf; *see* Fla. Admin. Code R. 64E-6.006(2).
[102] University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), *available at* http://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf.
[103] DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (2019), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf.
[104] DOH, *Onsite Sewage Programs, Product Listings and Approval Requirements*, http://www.floridahealth.gov/environmental-health/onsite-sewage/products/index.html (last visited Dec. 2, 2019).
[105] Section 381.00655, F.S.
[106] *Id*.

- Additional funding to accelerate septic to sewer conversions.[107]

The DOH Technical Review and Advisory Panel

The DOH has a technical review and advisory panel to review agency rules and provide assistance to the DOH with rule adoption.[108] It is comprised of, at a minimum:

- A soil scientist;
- A professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in OSTDSs;
- Two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems;
- A representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state;
- A representative from the real estate industry who is recommended by the Florida Association of Realtors;
- A consumer representative with a science background;
- Two representatives of the septic tank industry recommended by the Florida Onsite Wastewater Association, including one who is a manufacturer of onsite sewage treatment and disposal systems;
- A representative from local government who is knowledgeable about domestic wastewater treatment and who is recommended by the Florida Association of Counties and the Florida League of Cities; and
- A representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department.[109]

Members are to be appointed for a term of two years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise.[110]

Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.[111] When stormwater falls on pavement, buildings, and other impermeable surfaces, the runoff flows

[107] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[108] Section 381.0068, F.S.
[109] *Id*.
[110] *Id*.
[111] DEP and Water Management Districts, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), *available at* https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Appliicant_Hanbook_I_-_Combined.pd_0.pdf.

quickly and can pick up sediment, nutrients (such as nitrogen and phosphorous), chemicals, and other pollutants.[112] Stormwater pollution is a major source of water pollution in Florida.[113]

There are two main regulatory programs to address water quality from stormwater: the federal program that regulates discharges of pollutants into waters of the United States[114] and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.[115] The federal NPDES Stormwater Program regulates the following types of stormwater pollution:[116]

- Certain municipal storm sewer systems;
- Runoff from certain construction activities; and
- Runoff from industrial activities.[117]

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.[118] ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.[119] The statewide ERP Program is implemented by the DEP, the WMDs, and certain local governments. The ERP Applicant Handbook, incorporated by reference into the DEP rules, provides guidance on the DEP's ERP Program, including stormwater topics such as the design of stormwater management systems.[120]

The DEP and the WMDs are authorized to require permits and impose reasonable conditions:

- To ensure that construction or alteration of stormwater management systems and related structures are consistent with applicable law and not harmful to water resources;[121] and
- For the maintenance or operation of such structures.[122]

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[112] DEP, *Stormwater Management*, 1 (2016), *available at* https://floridadep.gov/sites/default/files/stormwater-management_0.pdf. When rain falls on fields, forests, and other areas with naturally permeable surfaces the water not absorbed by plants filters through the soil and replenishes Florida's groundwater supply.

[113] DEP, *Stormwater Support*, https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support (last visited Dec. 2, 2019); DEP, *Nonpoint Source Program Update*, 10 (2015), *available at* https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf.

[114] National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.

[115] Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

[116] A point source is discernible, confined and discrete conveyance, such as a pipe, ditch, channel, tunnel, conduit, discrete fissure, or container. *See* The Clean Water Act, 33 U.S.C. s. 1362(14) and 40 C.F.R. 122.2; Stormwater can be either a point source or a nonpoint source of pollution. EPA, *Monitoring and Evaluating Nonpoint Source Watershed Projects*, 1-1, *available at* https://www.epa.gov/sites/production/files/2016-02/documents/chapter_1_draft_aug_2014.pdf; DEP, *Nonpoint Source Program Update*, 9 (2015), *available at* https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf.

[117] *See generally* EPA, *NPDES Stormwater Program*, https://www.epa.gov/npdes/npdes-stormwater-program (last visited Dec. 2, 2019).

[118] DEP, *DEP 101: Environmental Resource Permitting*, https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting (last visited Dec 2, 2019).

[119] South Florida Water Management District, *Environmental Resource Permits*, https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits (last visited Dec. 2, 2019).

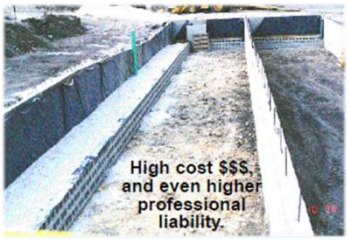
[120] Fla. Admin. Code R. 62-330.010(4); DEP and WMDs, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), *available at* https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Appliicant_Hanbook_I_-_Combined.pd_0.pdf; , *Environmental Resource Permit Applicant's Handbook Volume II*, *available at* https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Dec. 2, 2019).

[121] Section 373.413, F.S.; *see* s. 403.814(12), F.S.

[122] Section 373.416, F.S.

The DEP's stormwater rules are technology-based effluent limitations rather than water quality-based effluent limitations.[123] This means that stormwater rules rely on design criteria for BMPs to achieve a performance standard for pollution reduction, rather than specifying the amount of a specific pollutant that may be discharged to a waterbody and still ensure that the waterbody attains water quality standards.[124] The rules contain minimum stormwater treatment performance standards, which require design and performance criteria for new stormwater management systems to achieve at least 80 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards.[125] The standard is 95 percent reduction when applied to Outstanding Florida Waters. In 2007, an evaluation performed for the DEP generally concluded that Florida's stormwater design criteria failed to consistently meet either the 80 percent or 95 percent target goals in the DEP's rules.[126] The images shown here depict six major types of surface water management systems:[127]

"Filtered" Ponds



Underground Vaults

"Dry" Retention Ponds

"Wet" Detention Ponds

Underground Exfiltration Trenches

Pervious Pavement

[123] DEP, *ERP Stormwater*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Nov. 8, 2019).
[124] See generally, EPA, National Pollutant Discharge Elimination System (NPDES), www.epa.gov/npdes/npdes-permit-limits (last visited Dec. 2, 2019).
[125] Fla. Admin. Code R. 62-40.432(2).
[126] Environmental Research & Design, Inc., *Evaluation of Current Stormwater Design Criteria within the State of Florida*, 6-1 (2007), *available at* https://www.sfwmd.gov/sites/default/files/documents/sw%20treatment%20report-final71907.pdf. The report makes an exception for the St. John's River Water Management District's standards for on-line dry retention.
[127] Presentation to the Blue-Green Algae Task Force by Benjamin Melnik, Deputy Director of the Division of Water Resource Management, *Stormwater*, 12 (September 24, 2019) (on file with Committee on Environment and Natural Resources).

The DEP and the WMDs must require applicants to provide reasonable assurance that state water quality standards will not be violated.[128] If a stormwater management system is designed in accordance with the stormwater treatment requirements and criteria adopted by the DEP or the WMDs, then the system design is presumed not to cause or contribute to violations of applicable state water quality standards.[129] If a stormwater management system is constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption, then the stormwater discharged from the system is presumed not to cause or contribute to violations of applicable state water quality standards.[130] If an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the DEP or a WMD must consider mitigation measures that cause a net improvement of the water quality in the water body that does not meet the standards.[131]

2010 Stormwater Rulemaking

From 2008 to 2010, the DEP and the WMDs worked together on developing a statewide unified stormwater rule to protect Florida's surface waters from the effects of excessive nutrients in stormwater runoff.[132] A technical advisory committee was established. In 2010, the DEP announced a series of workshops to present for public comment the statewide stormwater quality draft rule Chapter 62-347 of the Florida Administrative Code and an Applicant's Handbook.[133] The notice stated the goal of the rule was to "increase the level of nutrient treatment in stormwater discharges and provide statewide consistency by establishing revised stormwater quality treatment performance standards and best management practices design criteria."[134]

These rulemaking efforts produced a draft document called the "Environmental Resource Permit Stormwater Quality Applicant's Handbook: Design Requirements for Stormwater Treatment in Florida."[135] The 2010 draft handbook's stormwater quality permitting requirements:

- Provided for different stormwater treatment performance standards based on various classifications of water quality.[136]

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[128] Section 373.414(1), F.S.; *see* s. 373.403(11), F.S.; *see* Fla. Admin. Code Ch. 62-4, 62-302, 62-520, and 62-550.
[129] Section 373.4131(3)(b), F.S. Fla. Admin. Code R. 62-40.432(2); *see also* DEP, *ERP Stormwater*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Dec. 2, 2019) (stating that a key component of the stormwater rule is a "rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will not cause harm to water resources").
[130] Section 373.4131(3)(c), F.S.
[131] Section 373.414(1)(b)3., F.S.
[132] South Florida Water Management District, *Quick Facts on the Statewide Unified Stormwater Rule*, *available at* https://www.sfwmd.gov/sites/default/files/documents/spl_stormwater_rule.pdf.
[133] Florida Administrative Register, Notices of Meetings, Workshops, and Public Hearings, *Notice of Rescheduling*, pg. 1885 (Apr. 23, 2010), *available at* https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2010/3616/3616doc.pdf.
[134] *Id.*
[135] DEP and Water Management Districts, *March 2010 Draft, Environmental Resource Permit Stormwater Quality Applicant's Handbook, Design Requirements for Stormwater Treatment Systems in Florida* (2010), *available at* https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content2/roadway/drainage/files/stormwaterqualityapphb-draft.pdf?sfvrsn=579bf184_0.
[136] *Id.* at 6-7.

- Included instructions for calculating a project's required nutrient load reduction based on comparing the predevelopment and post-development loadings.[137]
- Provided the required criteria for stormwater BMPs.
- Listed fifteen different types of stormwater treatment systems, including low impact design, pervious pavements, and stormwater harvesting.[138]

The new rule and revised handbook were expected to be adopted in 2011.[139] However, no such rules or revised handbook were ever adopted. While the draft Stormwater Quality Applicant's Handbook never went into effect, it can provide context for understanding what new rules on these topics may look like.

The Blue-Green Algae Task Force recommended that the DEP revise and update stormwater design criteria and implement an effective inspection and monitoring program.[140]

Water Quality Monitoring

One of the DEP's goals is to determine the quality of the state's surface and ground water resources. This goal is primarily accomplished through several water quality monitoring strategies that are administered through the Water Quality Assessment Program. Responsibilities of the program include: monitoring and assessing how water quality is changing over time; the overall water quality and impairment status of the state's water resources; and the effectiveness of water resource management, protection, and restoration programs.[141]

Within the Water Quality Assessment Program, the DEP administers the Watershed Monitoring Program. This program is responsible for collecting reliable data through water samples from rivers, streams, lakes, canals, and wells around the state.[142] This information is used by the DEP to determine which waters are impaired and what restoration efforts are needed.

The Blue-Green Algae Task Force recommended that science-based decision making and monitoring programs be enhanced, including the development of an expanded and more comprehensive statewide water quality monitoring strategy. Monitoring programs should focus on informing restoration project selection, implementation, and evaluation.[143]

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[137] *Id.* at 8-11.
[138] *Id.* at 3.
[139] Nicole C. Kibert, *Status of Low Impact Development in Florida and Legal Considerations for Operation and Maintenance of LID Systems*, FLORIDA BAR JOURNAL Vol. 85, No. 1 (2011), https://www.floridabar.org/the-florida-bar-journal/status-of-low-impact-development-in-florida-and-legal-considerations-for-operation-and-maintenance-of-lid-systems/ (last visited Nov. 14, 2019).
[140] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[141] DEP, *Water Quality Assessment Program*, https://floridadep.gov/dear/water-quality-assessment (last visited Dec. 2, 2019).
[142] DEP, *Watershed Monitoring*, https://floridadep.gov/dear/watershed-monitoring-section (last visited Dec. 2, 2019).
[143] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary[144] that runs along 156 miles of Florida's east coast and borders Volusia, Brevard, Indian River, St. Lucie, and Martin counties.[145] The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.[146] Four BMAPs have been adopted for the IRL region.[147]

The IRL is one of the most biologically diverse estuaries in North America and is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.[148] The estimated economic value received from the IRL in 2014 was approximately $7.6 billion.[149] Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.[150]

The IRL ecosystem has been harmed by human activities in the region. Stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, canal discharges, septic systems, animal waste, and fertilizer applications have led to harmful levels of nutrients and sediments entering the lagoon.[151] These pollutants create cloudy conditions, feed algal blooms, and lead to muck accumulation, all of which negatively impact the seagrass that provides habitat for much of the IRL's marine life.[152]

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as the merging of an existing department, program, or activity into another department. Any program or activity transferred by a type two transfer retains all the statutory powers, duties, and functions it held previous to the transfer. The program or activity also retains its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, unless otherwise provided by law. The transfer of

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[144] An estuary is a partially enclosed, coastal waterbody where freshwater from rivers and streams mixes with saltwater from the ocean. Estuaries are among the most productive ecosystems on earth, home to unique plant and animal communities that have adapted to brackish water: freshwater mixed with saltwater. U.S. EPA, *What Is an Estuary?*, https://www.epa.gov/nep/basic-information-about-estuaries (last visited Dec. 2, 2019); NOAA, *What Is An Estuary?*, https://oceanservice.noaa.gov/facts/estuary.html (last visited Dec. 2, 2019).

[145] IRL National Estuary Program, *About the Indian River Lagoon*, http://www.irlcouncil.com/ (last visited Dec. 2, 2019).

[146] *Id*.

[147] East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, x (Aug. 26, 2016), *available at* http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf; DEP, *Basin Management Action Plans (BMAPs)*, https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps (last visited Dec. 2, 2019).

[148] IRL National Estuary Program, *About the Indian River Lagoon*, http://www.irlcouncil.com/ (last visited Dec. 2, 2019).

[149] East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, vi (Aug. 26, 2016), *available at* http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf.

[150] *Id.* at ix. The main IRL-related industry groups are categorized as: Living Resources; Marine Industries; Recreation and Visitor-related; Resource Management; and Defense & Aerospace.

[151] Tetra Tech, Inc. & Closewaters, LLC, *Draft Save Our Indian River Lagoon Project Plan 2019 Update for Brevard County, Florida, xii (Mar. 2019), available at https://www.dropbox.com/s/j9pxd59mt1baf7q/Revised%202019%20Save%20Our%20Indian%20River%20Lagoon%20Project%20Plan%20Update%20032519.pdf?dl=0*.

[152] *Id*.

segregated funds must be made in such a manner that the relation between the program and the revenue source is retained.[153]

Rural Areas of Opportunity

A rural area of opportunity (RAO) is a rural community or region of rural communities that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.[154] By executive order, the Governor may designate up to three RAOs, establishing each region as a priority assignment for Rural Economic Development Initiative (REDI) agencies. The Governor can waive the criteria, requirements, or any similar provisions of any state economic development incentive for projects in a RAO.[155]

The currently designated RAOs are: [156]

- Northwestern RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and part of Walton County.
- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Statement of Estimated Regulatory Cost

If a proposed agency rule will have an adverse impact on small business or is likely to increase directly or indirectly regulatory costs in excess of $200,000 aggregated within one year after implementation, an agency must prepare a statement of estimated regulatory costs (SERC).[157] The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or an increase in regulatory costs. If the SERC shows that the adverse impact or regulatory costs of the proposed rule exceeds $1 million in the aggregate within five years after implementation, then the proposed rule must be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[158]

Biosolids

Approximately two-thirds of Florida's population is served by around 2,000 domestic wastewater facilities permitted by the DEP.[159] When domestic wastewater is treated, solid,

[153] Section 20.06(2), F.S.
[154] Section 288.0656(2)(d), F.S.
[155] Section 288.0656(7), F.S.
[156] Department of Economic Opportunity, *Rural Areas of Opportunity*, http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Dec. 2, 2019).
[157] Section 120.541, F.S.
[158] *Id*.
[159] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Dec. 9, 2019).

semisolid, or liquid residue known as biosolids[160] accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.[161] Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the DEP.[162] The collected residue is high in organic content and contains moderate amounts of nutrients.[163]

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.[164] Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land application to pasture or agricultural lands.[165] About one-third of the total amount of biosolids produced is used for land application[166] and is subject to regulatory requirements established by the DEP to protect public health and the environment.[167]

Land application is the use of biosolids at a permitted site to provide nutrients or organic matter to the soil, such as agricultural land, golf courses, forests, parks, or reclamation sites. Biosolids are applied in accordance with restrictions based on crop nutrient needs, phosphorus limits in the area, and soil fertility.[168] Biosolids contain macronutrients (such as nitrogen and phosphorus) and micronutrients (such as copper, iron, and manganese) that are utilized by crops. The application of these nutrient-rich biosolids increases the organic content of the soil, fostering more productive plant growth.[169] To prevent odor or the contamination of soil, crops, livestock, and humans, land application sites must meet site management requirements such as site slopes, setbacks, and proximity to groundwater restrictions.[170] There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.[171]

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[160] Section 373.4595, F.S. Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.

[161] DEP, *Domestic Wastewater Biosolids*, https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids (last visited Dec. 9, 2019).

[162] Fla. Admin. Code R. 62-640.200(6).

[163] *Id*.

[164] DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) *available at* http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 5 (Sept. 2018), *available at* https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019).

[165] *Id*. at 4.

[166] *Id*. at 5.

[167] Fla. Admin. Code R. 62-640.

[168] DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida*, 8 (Sept. 2018), *available at* https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019); *see also*, United States EPA, A Plain English Guide to the EPA Part 503 Biosolids Rule, 26 (Sept. 1994), *available at* https://www.epa.gov/sites/production/files/2018-12/documents/plain-english-guide-part503-biosolids-rule.pdf (last visited Dec.. 9, 2019).

[169] *Id.* at 20.

[170] *Id*. at 9.

[171] DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) *available at* http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 20 (Sept. 2018), *available at*

Regulation of Biosolids by the DEP

The DEP regulates three classes of biosolids for beneficial use.

- Class B - minimum level of treatment;
- Class A - intermediate level of treatment; and
- Class AA - highest level of treatment.[172]

The DEP categorizes the classes based on treatment and quality. Treatment of biosolids must:

- Reduce or completely eliminate pathogens;
- Reduce the attractiveness of the biosolids for pests (such as insects and rodents); and
- Reduce the amount of toxic metals in the biosolids.[173]

https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019). Wastewater treatment facilities commonly contract with waste haulers instead of applying the biosolids themselves.

[172] *Id*. at 6.

[173] *Id*. at 7.

Class AA biosolids can be distributed and marketed as fertilizer. Because they are the highest quality, they are not subject to the same regulations as Class A and Class B biosolids and are exempt from nutrient restrictions.[174] Typically, Class B biosolids are used in land application.[175]

Biosolids are regulated under Rule 62-640 of the Florida Administrative Code. The rules provide minimum requirements, including monitoring and reporting requirements, for the treatment, management, use, and disposal of biosolids. The rules are applicable to wastewater treatment facilities, appliers, and distributors[176] and include permit requirements for both treatment facilities and biosolids application sites.[177]

Each permit application for a biosolids application site must include a site-specific nutrient management plan (NMP) that establishes the specific rates of application and procedures to apply biosolids to land.[178] Biosolids may only be applied to land application sites that are permitted by the DEP and have a valid NMP.[179] Biosolids must be applied at rates established in accordance with the nutrient management plan and may be applied to a land application site only if all concentrations of minerals do not exceed ceiling and cumulative concentrations determined by rule.[180] According to the St. Johns Water Management District, application rates of biosolids are determined by crop nitrogen demand, which can often result in the overapplication of phosphorus to the soil and can increase the risk of nutrient runoff into nearby surface waters.[181]

Once a facility or site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.[182] The requirements are site-specific and can be increased or reduced by the DEP based on the quality or quantity of wastewater or biosolids treated; historical variations in biosolids characteristics; industrial wastewater or sludge contributions to the facility; the use, land application, or disposal of the biosolids; the water quality of surface and ground water and the hydrogeology of the area; wastewater or biosolids treatment processes; and the compliance history of the facility or application site.[183]

State Bans on the Land Application of Biosolids

Section 373.4595, F.S., sets out the statutory guidelines for the Northern Everglades and Estuaries Protection Program. This statute is designed to protect and promote the hydrology of Lake Okeechobee, and the Caloosahatchee and St. Lucie Rivers and their estuaries. As part of those protections, the Legislature banned the disposal of domestic wastewater biosolids within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient

[174] *Id*. at 8.
[175] *Id.* at 6.
[176] Fla. Admin. Code R. 62-640.100.
[177] Fla. Admin. Code R. 62-640.300.
[178] Fla. Admin. Code R. 62-640.500.
[179] *Id*.
[180] Fla. Admin. Code R. 62-640.700.
[181] Victoria R. Hoge, Environmental Scientist IV, St. Johns River Water Management District, *Developing a Biosolids Database for Watershed Modeling Efforts*, *abstract available at* http://archives.waterinstitute.ufl.edu/symposium2018/abstract_detail.asp?AssignmentID=1719 (last visited Mar. 8, 2019).
[182] Fla. Admin. Code R. 62-640.650.
[183] *Id*.

loadings in the watershed.[184] The prohibition against land application in these watersheds does not apply to Class AA biosolids that are distributed as fertilizer products in accordance with Rule 62-640.850 of the Florida Administrative Code.[185]

The land application of Class A and Class B biosolids is also prohibited within priority focus areas in effect for Outstanding Florida Springs if the land application is not in accordance with a NMP that has been approved by the DEP.[186] The NMP must establish the rate at which all biosolids, soil amendments, and nutrient sources at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged into groundwater and waters of the states.[187]

Local Regulation of Biosolids

The Indian River County Code addresses land application of biosolids by providing criteria for designated setbacks, reporting requirements, and required approval. In July 2018, the Indian River County Commission voted for a six-month moratorium on the land application of Class B biosolids on all properties within the unincorporated areas of the county.[188] The ordinance also directs the County Administrator to coordinate with the DEP on a study to report the findings and recommendations concerning Class B biosolids land application activities and potential adverse effects.[189] The County Commission voted in January 2019 to extend the moratorium for an additional six months.[190]

The City Council of Fellsmere adopted a similar moratorium, Ordinance 2018-06, in August 2018, authorizing a temporary moratorium for 180 days or until a comprehensive review of the impact on the city's ecosystem is completed.[191] In January 2019, the ordinance was extended for an additional 180 days.[192]

The Treasure Coast Regional Planning Council held a Regional Biosolids Symposium in June 2018, where regional representatives and stakeholders discussed biosolids and alternative techniques for disposal.[193] At its meeting in July, the Treasure Coast Regional Planning Council adopted a resolution encouraging state and local governments to prioritize the reduction and eventual elimination of the land application of human wastewater biosolids.[194] It also encouraged

[184] Chapter 2016-1, Laws of Florida; *see* s. 373.4595, F.S.
[185] *Id*.
[186] Section 373.811(4), F.S.
[187] *Id*.
[188] Indian River County Commission Ordinance 18-2020 (Jul. 17, 2018), *available at* http://ircgov.granicus.com/player/clip/183?view_id=1&meta_id=64650 (last visited Dec. 9, 2019).
[189] *Id*.
[190] Indian River County Commission Ordinance 18-2642 (Jan. 14, 2019), *available at* http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302 (last visited Dec. 9, 2019).
[191] Fellsmere City Council Meeting, *Agenda* (Aug. 16, 2018), *available at* https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/8301/co20180816agenda.pdf.
[192] Fellsmere City Council Meeting, *Agenda* (Feb. 7, 2019), *available at* https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf.
[193] Treasure Coast Regional Planning Council Regional Biosolids Symposium, *Charting the Future of Biosolids Management Executive Summary* (Jun. 18, 2018), *available at* http://www.tcrpc.org/announcements/Biosolids/summit%20summary.pdf.
[194] Treasure Coast Regional Planning Council Resolution 18-03 (Jul. 20, 2018), *available at* http://www.flregionalcouncils.org/wp-content/uploads/2019/01/Treasure-Coast-Resolution-No.-18-03.pdf.

the state to establish a Pilot Projects Program to incentivize local utilities to implement new wastewater treatment technologies that would allow more efficient use of biosolids.[195]

Rule Development

In 2018, the DEP created a Biosolids Technical Advisory Committee (TAC) to establish an understanding of potential nutrient impacts of the land application of biosolids, evaluate current management practices, and explore opportunities to better protect Florida's water resources. The TAC members represent various stakeholders, including environmental and agricultural industry experts, large and small utilities, waste haulers, consultants, and academics.[196]

The TAC convened on four occasions from September 2018 to January 2019 and discussed the current options for biosolids management in the state, ways to manage biosolids to improve the protection of water resources, and research needs to build upon and improve biosolids management.[197]

Based on recommendations of the TAC and public input, the DEP published a draft rule on October 29, 2019.[198] Key proposals in the draft rule include:

- A prohibition on the land application of biosolids where the seasonal high water table is within 15 cm of the soil surface or 15 cm of the intended depth of biosolids placement. The existing rule requires a soil depth of two feet between the depth of biosolids placement and the water table level at the time the Class A or Class B biosolids are applied to the soil.
- A requirement that land application must be done in accordance with applicable BMAPs.
- Definitions for "capacity index," "percent water extractable phosphorus," and "seasonal high water table."
- More stringent requirements must be provided in the Nutrient Management Plan.
- All biosolids sites must enroll in a DACS BMP Program.
- All biosolids applications are considered projects of heightened public concern/interest,[199] meaning that a permit applicant must publish notice of their application one time only within fourteen days after a complete application is filed.[200]
- Increased monitoring for surface and groundwater.
- The requirement measures to be taken to prevent leaching of nutrients for the storage of biosolids.
- Existing facilities must be in compliance with the new rule within three years of the adoption date.

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[195] *Id*.
[196] The seven members of TAC included two academic representatives from the University of Florida, two representatives of small and large utilities, and one representative each for environmental interests, agricultural interests, and waste haulers.
[197] DEP, *DEP Biosolids Technical Advisory Committee*, https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee (last visited Mar. 6, 2019).
[198] Florida Department of State, Notice of Proposed Rule: Rule No.: 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-640.800, 62-640.850, 62-640.880 (Oct. 29, 2019), https://www.flrules.org/gateway/View_Notice.asp?id=22546212 (last visited Dec. 5, 2019).
[199] Note: the draft rule uses the phrase "public interest" but the rule cross-referenced in the draft rule uses the phrase "public concern."
[200] Fla. Admin. Code R. 62-110.106(6).

This biosolids rule required a SERC that exceeds the threshold to trigger the requirement for legislative ratification.[201] The SERC makes the following statements:

> The revised rule may significantly reduce biosolids land application rates (the amount applied per acre on an annual basis) by an estimated 75 percent. In 2018, just under 90,000 dry tons of Class B biosolids were applied to biosolids land application sites with about 84,000 acres of the currently permitted 100,000 acres in Florida. Reduced land application rates would necessitate the permitting about four to ten times more land to accommodate the current quantity of land applied Class B biosolids.
>
> As haulers have already permitted land application sites closer to the domestic wastewater facilities that generate biosolids, any additional sites are expected to be at greater distances from these facilities. This could result in longer hauling distances. Additionally, some existing sites may cease land application completely, either because the site may not be suitable for land application or because the landowner may not want to subject their property to ground water or surface water quality monitoring. The additional site monitoring requirements for ground water and surface water will also increase operational costs, so some biosolids site permittees, especially for smaller sites, may choose to cease operations. Under the proposed rule, some portion of currently land-applied Class B biosolids are expected to then be disposed of in landfills or be converted to Class AA biosolids. The reduction in land application rates, loss of land application sites, and shift away from land application could result in:
> - Loss of biosolids hauling contracts.
> - Loss of jobs with biosolids hauling companies.
> - Loss of grass production and income for landowners.
> - Increased operational expenses for biosolids haulers, and;
> - Loss of cost savings and production for cattle ranchers and hay farmers.
>
> Under the revised rule, biosolids land application rates will drop by an average of 75 percent. Some farmers indicate an economic value of about $60 per acre in fertilizer savings through biosolids land application. In 2018, approximately 84,000 acres were utilized for the land application of biosolids, which would represent a current fertilizer cost savings of approximately $5,040,000. This would be a loss of $3,780,000 in cost savings annually if 75 percent less biosolids can be applied per acre.[202]

The SERC includes the following statewide estimates:
- Capital costs for new permitting and land application sites of $10 million;
- Recurring costs for additional sites and transportation of wet biosolids of at least $31 million; and

[201] DEP, *Statement of Estimated Regulatory Costs (SERC), available at* https://content.govdelivery.com/attachments/FLDEP/2019/10/29/file_attachments/1313532/62-640%20SERC.pdf.
[202] *Id*.

- Additional monitoring costs of $1 million.[203]

The DEP expects more biosolids to be converted to class AA biosolids/fertilizer. They estimate the capital cost for additional class AA biosolids projects will be between $300-$400 million.[204] The DEP is currently reviewing lower cost regulatory alternatives that have been submitted.[205] The next step will be a hearing before the Environmental Regulation Commission and adoption of the rule. Following rule adoption, legislative ratification is required.[206]

Damages and Monetary Penalties

The DEP may institute a civil action (in court) or an administrative proceeding (in the Division of Administrative Hearings) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.[207] Civil actions and administrative proceedings have different procedures.[208] Administrative proceedings are often viewed as less formal, less lengthy, and less costly.

With respect to damages, the violator is liable for:
- Damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state; and
- Reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition.[209]

In addition to damages, a violator can be liable for penalties. For civil penalties, the DEP can levy up to $10,000 per offense. Each day of the violation is a separate offense. The DEP is directed to proceed administratively in all cases in which the DEP seeks penalties that do not exceed $10,000 per assessment. The DEP is prohibited from imposing penalties in excess of $10,000 in a notice of violation. The DEP cannot have more than one notice of violation pending against a party unless it occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.[210]

Section 403.121(3), F.S., sets out a penalty schedule for various violations. In particular, it includes the following penalties related to wastewater:
- $1,000 for failure to obtain a required wastewater permit.
- $2,000 for a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation resulting in an unpermitted or unauthorized discharge or effluent-limitation exceedance.

[203] *Id*.
[204] *Id*.
[205] Email from Justin Wolfe, General Counsel, DEP, RE: Biosolids Rule (Dec. 2. 2019)(on file with the Environment and Natural Resources Committee).
[206] Section 120.541(3), F.S.
[207] Section 403.121, F.S.
[208] Sections 403.121 and 403.141, F.S.
[209] Section 403.121, F.S.
[210] *Id*.

- $5,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation. [211]

A court or an administrative law judge may receive evidence in mitigation.[212] The DEP may also seek injunctive relief either judicially or administratively.[213] Additionally, criminal penalties are available for various types of violations of chapter 403, F.S.[214]

The Rights of Nature Movement

The Rights of Nature Movement is the concept of recognizing that nature has legal rights and legal standing in a court of law.[215] "It is the recognition that our ecosystems – including trees, oceans, animals, and mountains – have rights just as human beings have rights."[216]

Standing is a party's right to make a legal claim or seek judicial enforcement of a duty or right.[217] To have standing in federal court, a plaintiff must show that the challenged conduct has caused the plaintiff actual injury and that the interest sought to be protected is within the zone of interests meant to be regulated by the statutory or constitutional guarantee.[218] Under the Rights of Nature concept, an ecosystem could be named as an injured party in a court of law, with its own legal standing rights. Proponents of the Rights of Nature see legal personhood as a promising tool for protecting nature and analogous to corporate personhood and the protection of corporate rights.[219]

Ecuador includes a Rights of Nature provision in its constitution.[220] Under the Ecuadorian constitution, nature has rights "to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution."[221] Bolivia, New Zealand, India,[222] and Colombia[223] have also taken steps toward recognizing rights of nature.

The Pennsylvania Constitution contains a provision stating "the people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people,

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[211] Section 403.121(3)(b), F.S.
[212] Section 403.121(3)(b), F.S.
[213] Section 403.121,(3)(b), F.S
[214] Section 403.161, F.S.
[215] Global Alliance for the Rights of Nature, *What is Rights of Nature?*, https://therightsofnature.org/what-is-rights-of-nature/ (last visited Jan. 18, 2020); Community Environmental Defense Fund, *Champion the Rights of Nature*, https://celdf.org/advancing-community-rights/rights-of-nature/ (last visited Jan. 18, 2020).
[216] *Id*.
[217] BLACK'S LAW DICTIONARY, 1536 (9th ed. 2009).
[218] *Id*.
[219] Gwendolyn J. Gordon, *Environmental Personhood*, 50, 43 COLUM. J. ENVTL. L. 49 (Jan. 11, 2019) (citing *Burwell v. Hobby Lobby Stores, Inc*., 134 S.Ct. 2751 (2014); *Citzens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010)).
[220] Constitutión Politica de la República del Ecuador, art. 10, 71-74 (Ecuador), English translation *available at* http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html.
[221] *Id*.
[222] *See generally*, Gwendolyn J. Gordon, *Environmental Personhood*, 50, 43 COLUM. J. ENVTL. L. 49 (Jan. 11, 2019).
[223] *See*, Patrick Parenteau, *Green Justice Revisited: Dick Brooks on the Laws of Nature and the Nature of Law*, 20 VT. J. ENVTL. L. 183, 186 (2019); Global Alliance for the Rights of Nature, *Columbia Constitutional Court Finds Atrato River Possesses Rights*, https://therightsofnature.org/colombia-constitutional-court-finds-atrato-river-possesses-rights/ (last visited Jan. 19, 2020).

including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people."[224] Based on this constitutional provision, a court overturned a Pennsylvania law protecting extractive interests from local ordinances to limit environmentally harmful activities.[225] Local governments in Pennsylvania,[226] Maine,[227] New Hampshire,[228] and California,[229] among others, have enacted rights of nature provisions in their local ordinances. The idea is being discussed in various Florida communities, but no local ordinances have been adopted at this time.[230]

The Florida Environmental Protection Act

The Environmental Protection Act of 1971 authorizes the bringing of an action for injunctive relief to compel a governmental authority to enforce laws, rules, and regulations for the protection of the air, water, and other natural resources of the State of Florida or to enjoin a person or governmental agency or authority from violating any laws, rules, or regulations for the protection of the air, water, and other natural resources of the state.[231] In any administrative, licensing, or other proceedings authorized by law for the protection of the air, water, or other natural resources of the state from pollution, impairment, or destruction, the government or a citizen of the state has standing to intervene as a party on the filing of a pleading asserting that the activity to be licensed or permitted has or will have the effect of impairing, polluting, or otherwise injuring the air, water, or other natural resources of the state.[232] A citizen's substantial interests are considered to be affected if the party demonstrates it may suffer an injury in fact which is of sufficient immediacy and is of the type and nature intended to be protected by law. No demonstration of special injury different in kind from the general public at large is required. A sufficient demonstration of a substantial interest may be made by a petitioner who establishes that the proposed activity, conduct, or product to be licensed or permitted affects the petitioner's use or enjoyment of air, water, or natural resources protected by law.[233]

In *Florida Wildlife Federation v. State Dept. of Environmental Regulation*, the Florida Supreme Court held that the Environmental Protection Act (Act) sets out substantive rights not previously possessed.[234] Private citizens of Florida may institute a suit under the Act without showing of special injury required by traditional rules of standing.[235] The Act does not constitute an impermissible intrusion by the Legislature into the Supreme Court's power over practice and procedure in state courts, but rather creates a new cause of action setting out substantive rights

[224] PA. CONST. art. 1, § 27
[225] *Robinson v. Commonwealth*, 83 A.3d 901 (2013).
[226] *See* City of Pittsburgh Code of Ordinances, § 618.03.
[227] Town of Shapleigh Code, §99-16.
[228] Barrington, NH, Community Bill of Rights §2(e), *available at* https://www.barrington.nh.gov/sites/barringtonnh/files/uploads/bill_of_rights.pdf.
[229] Santa Monica Municipal Code, Ch. 12.02.030.
[230] SAFEBOR, *Welcome to the Santa Fe River Bill of Rights Campaign*, https://safebor.org/ (last visited Jan. 23, 2020); Global Alliance for the Rights of Nature, *The Rights of Nature Movement has Arrived to Florida*, https://therightsofnature.org/the-rights-of-nature-movement-has-arrived-to-florida/ (last visited Jan. 23, 2020).
[231] Section 403.412(2)(a), F.S.
[232] Section 403.412(5), F.S.
[233] *Id*.
[234] 390 So.2d 64 (Fla. 1980).
[235] *Id*.

not previously possessed and enabling the citizens of Florida to institute suit for the protection of their environment without a showing of "special injury" as previously required.[236]

Regulation of Bottled Water

The U.S. Food and Drug Administration regulates the bottled water industry for safety and water quality.[237] Bottled water is water intended for human consumption that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents.[238] A "bottled water plant" is an establishment in which bottled water is prepared for sale.[239] In Florida, the regulation of bottled water plants is preempted to the state.[240] The DACS Division of Food Safety regulates bottling, labeling, and handling at bottled water plants.[241] The DACS requires bottled water plants to obtain a food permit, which must be renewed annually.[242]

Florida law requires that bottled water come from an "approved source," which is defined as any source of water that complies with the federal Safe Drinking Water Act.[243] Bottled water must be processed in conformance with the applicable federal regulations.[244] It must conform to specific federal standards for water quality, label statements, and adulteration.[245] If the label bears a name or trademark containing terms such as "springs," "well," or "natural" then the label must also state the source of the water, if the correct source is not indicated in the name or trademark.[246] The person operating the bottled water plant is responsible for all water sampling and analysis.[247]

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[236] *Id*.
[237] 21 C.F.R. pt. 129; 21 C.F.R. s. 165.110; FDA, *FDA Regulates the Safety of Bottled Water Beverages Including Flavored Water and Nutrient-Added Water Beverages*, https://www.fda.gov/food/buy-store-serve-safe-food/fda-regulates-safety-bottled-water-beverages-including-flavored-water-and-nutrient-added-water (last visited Jan. 6, 2020).
[238] Section 500.03(1)(d), F.S. Florida law defines "bottled water" using the description provided in federal regulation; 21 C.F.R. s. 165.110(a)(1). The full description of "bottled water" in the federal regulation is: "water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents. Fluoride may be optionally added within the limitations established in § 165.110(b)(4)(ii). Bottled water may be used as an ingredient in beverages (e.g., diluted juices, flavored bottled waters). It does not include those food ingredients that are declared in ingredient labeling as "water," "carbonated water," "disinfected water," "filtered water," "seltzer water," "soda water," "sparkling water," and "tonic water." The processing and bottling of bottled water shall comply with applicable regulations in part 129 of this chapter."
[239] Section 500.03(1)(e), (n), and (p), F.S.
[240] Section 500.511, F.S.; *see* s. 367.022(1), F.S. The sale, distribution, or furnishing of bottled water is not regulated by the Florida Public Service Commission as a utility.
[241] Section 500.12, F.S.; *see* DACS, *Food Establishments*, https://www.fdacs.gov/Business-Services/Food-Establishments (last visited Jan. 6, 2020); *see* DEP, *Source & Drinking Water Program*, https://floridadep.gov/water/source-drinking-water (last visited Jan. 6, 2020).
[242] Section 500.12(1)(b) and (c), F.S.; Fla. Admin. Code R. 5K-4.020(4)(b). The annual permitting fee for a bottled water plant is $500.
[243] Sections 500.03(1)(c) and 500.147(3), F.S.; *see* s. 500.03(1)(w), F.S. "Natural water" is defined as "bottled spring water, artesian well water, or well water that has not been altered with water from another source or that has not been modified by mineral addition or deletion, except for alteration that is necessary to treat the water through ozonation or an equivalent disinfection and filtration process."
[244] Section 500.147(3), F.S.; 21 C.F.R. pt. 129.
[245] Section 500.147(3), F.S.; 21 C.F.R. s. 165.110; *see* DACS, Division of Food Safety, *Bottled Water Testing Requirements*, https://www.fdacs.gov/content/download/72733/file/Bottled-Water-Testing-Requirements.pdf (last visited Jan. 6, 2020).
[246] Section 500.11(1)(o), F.S.
[247] Section 500.147(3), F.S.

Consumptive Use Permits

Consumptive use is any use of water which reduces the supply from which it is withdrawn or diverted.[248] A consumptive use permit (CUP), also known as a water use permit (WUP), establishes the duration and type of water use as well as the maximum quantity of water that may be withdrawn.[249] The DEP and the WMDs are authorized to issue CUPs and impose reasonable conditions as necessary to assure such use is consistent with the DEP or the WMDs goals and is not harmful to the water resources of the area.[250] This authority is primarily delegated to the WMDs, which implement extensive CUP programs within their respective jurisdictions.[251] To obtain a CUP, an applicant must establish that the proposed use of water:

- Is a reasonable-beneficial use;[252]
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.[253]

Each of the five WMDs publishes an applicant's handbook, incorporated by reference into their respective rules, identifying the procedures and information used by district staff for review of CUP applications.[254] Generally, there are two types of CUP permits: general permits that may be granted by rule based on regulatory thresholds for factors such as withdrawal volume or pipe diameter, and individual permits requiring applications when regulatory thresholds are exceeded.[255] The WMDs have different schedules for application processing fees, which can vary based on total requested withdrawal amounts or type of application.[256] The DEP and the WMDs are authorized to grant permits for a period of up to 20 years, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit.[257]

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[248] Fla. Admin. Code R. 62-40.210(4).
[249] Chapter 373, part II, F.S.
[250] Section 373.219, F.S. No permit is required for domestic consumption of water by individual users.
[251] Section 373.216, F.S.; Fla Admin. Code Chapters 40A-2, 40B-2, 40C-2, 40D-2, and 40E-2.
[252] Section 373.019(16), F.S. "Reasonable-beneficial use" is defined as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest"; Fla. Admin. Code R. 62-40.410. DEP rules contain a list of factors that must be considered when determining whether a water use is a reasonable-beneficial use.
[253] Section 373.223, F.S.; *see* s. 373.229, F.S. Permit applications must contain certain specified information.
[254] South Florida WMD, *Applicant's Handbook for Water Use Permit Applications* (2015)[hereinafter *SFWMD WUP Handbook*], *available at* https://www.sfwmd.gov/sites/default/files/documents/wu_applicants_handbook.pdf; Southwest Florida WMD, *Water Use Permit - Applicant's Handbook Part B* (2015)[hereinafter *SWFWMD WUP Handbook*], *available at* https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/WUP_Applicants_Handbook_Part_B.pd_.pdf; St. John's River WMD, *Applicant's Handbook: Consumptive Uses of Water* (2018)[hereinafter *SJRWMD CUP Handbook*], *available at* https://www.sjrwmd.com/static/permitting/CUP-Handbook-20180829.pdf; Northwest Florida WMD, *Water Use Permit Applicant's Handbook* (2015)[hereinafter *NWFWMD WUP Handbook*], *available at* https://www.nwfwater.com/content/download/8605/71075/Applicant_Handbook_201504.pdf; Suwannee River WMD, *Water Use Permit Applicant's Handbook* (2019)[hereinafter *SRWMD WUP Handbook*], *available at* https://www.flrules.org/gateway/readRefFile.asp?refId=11315&filename=REFERENCE%20MATERIAL_WUP%20Applicant%27s%20Handbook%20FINAL%2010-31-2019.pdf.
[255] *See* Michael T. Olexa et al., University of Florida, Institute of Food and Agricultural Sciences, *Handbook of Florida Water Regulation: Consumptive Use*, 2 (2017), *available at* https://edis.ifas.ufl.edu/pdffiles/FE/FE60400.pdf; The water management districts' respective rules contain various exemptions from CUP permitting, such as for firefighting purposes.
[256] *See* s. 373.109, F.S.
[257] Section 373.236, F.S.

The WMDs are required to include appropriate monitoring efforts as part of their CUP programs.[258] CUPs must be monitored when they authorize groundwater withdrawals of 100,000 gallons or more per day from a well with an inside diameter of eight inches or more.[259] Such monitoring must be at intervals and must use methods determined by the applicable WMD.[260] The results of such monitoring must be reported to the applicable WMD at least annually.[261] The WMD's respective CUP applicant handbooks contain various monitoring standards, which may include thresholds for required monitoring, reporting requirements, and specific standards for metering.[262] Generally, pursuant to the handbooks, the permittee is responsible for required monitoring of withdrawal quantities.

Minimum Flows and Minimum Water Levels

Minimum Flows and Minimum Water Levels (MFLs) are adopted standards that identify the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.[263] The DEP and the WMDs are required to establish MFLs based on priority lists for surface water courses, aquifers, and surface waters.[264] By establishing the limit at which further withdrawals would be significantly harmful, the MFLs provide a benchmark to help establish excess quantities of water that are available from priority water bodies. A key goal of establishing an MFL is to ensure there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource.[265]

Consolidated Water Management District Annual Report

The Consolidated Water Management District Annual Report addresses both water supply and water quality. Each WMD must annually prepare and submit the report to the DEP, the Governor, and the Legislature.[266]

The report contains several reports required under the Florida Water Resources Act, including:

- A district water management plan annual report or the annual work plan report.
- The DEP-approved minimum flows and minimum water levels annual priority list and schedule.[267]
- The annual five year capital improvements plan.[268]
- The alternative water supplies annual report.[269]

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[258] Section 373.216, F.S.
[259] Section 373.223(6), F.S. The water management districts are authorized to adopt or enforce certain rules in lieu of these requirements, in accordance with the statute.
[260] *Id.*
[261] *Id.*
[262] *SFWMD WUP Handbook*, at 93-98; *SWFWMD WUP Handbook*, at 70-71, 76-92; *SJRWMD CUP Handbook*, at 4-1–4-3; *NWFWMD WUP Handbook*, at 63-64; *SRWMD WUP Handbook*, at 43-44, 50.
[263] Section 373.042, F.S.
[264] Sections 373.042 and 373.0421, F.S.; Fla. Admin. Code R. 62-40.473.
[265] *see* DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations (last visited Jan. 9, 2020).
[266] Section 373.036(7)(a), F.S.
[267] Section 373.042(3), F.S.
[268] Section 373.536(6)(a)3., F.S.
[269] Section 373.707(8)(n), F.S.

- The final annual five year water resource development work program.[270]
- The Florida Forever Water Management District Work Plan annual report.[271]
- The mitigation donation annual report.[272]

The report must also contain information on all projects related to water quality or water quantity as part of a five year work program, including:

- A list of all specific projects identified to implement a basin management action plan or a recovery or prevention strategy;
- A priority ranking for each listed project for which state funding through the water resources development work program is requested, which must be made available to the public for comment at least 30 days before submission of the consolidated annual report;
- The estimated cost for each listed project;
- The estimated completion date for each listed project;
- The source and amount of financial assistance to be made available by the DEP, a WMD, or other entity for each listed project; and
- A quantitative estimate of each listed project's benefit to the watershed, water body, or water segment in which it is located.[273]

Appointment of the DEP Secretary

The head of the DEP is a secretary, who is appointed by the Governor, with the concurrence of three members of the Cabinet.[274] The secretary must be confirmed by the Florida Senate and serves at the pleasure of the Governor.[275]

III. Effect of Proposed Changes:

The bill provides a series of whereas clauses related to water quality issues the state is seeking to resolve.

Section 1 titles the bill the "Clean Waterways Act."

Section 2 takes the following steps toward shifting regulation of onsite sewage treatment and disposal systems (OSTDSs) from the Department of Health (DOH) to the Department of Environmental Protection (DEP):

- By July 1, 2020, the DOH must provide a report to the Governor and the Legislature detailing the following information regarding OSTDSs:
  - The average number of permits issued each year;
  - The number of department employees conducting work on or related to the program each year; and

[270] Section 373.536(6)(a)4., F.S.
[271] Section 373.199, F.S.
[272] Section 373.414(1)(b)2., F.S.
[273] Section 373.036(7)(b)8.a.-f., F.S.
[274] Section 20.255, F.S.
[275] *Id*.

  - The program's costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.
- By December 31, 2020, the DOH and the DEP must submit recommendations to the Governor and the Legislature regarding the transfer of the Onsite Sewage Program from the DOH to the DEP. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the DEP.
- By June 30, 2021, the DOH and the DEP must enter into an interagency agreement that must address all agency cooperation for a period not less than five years after the transfer, including:
  - The continued role of the county health departments in the permitting, inspection, data management, and tracking of OSTDSs under the direction of the DEP.
  - The appropriate proportionate number of administrative positions, and their related funding levels and sources and assigned property, to be transferred from the DOH to the DEP.
  - The development of a recommended plan to address the transfer or shared use of facilities used or owned by the DOH.
  - Any operating budget adjustments that are necessary to implement the requirements of the bill. The bill details how operating budget adjustments will be made. The appropriate substantive committees of the Senate and the House of Representatives will be notified of the proposed revisions to ensure their consistency with legislative policy and intent.
- Effective July 1, 2021, the regulation of OSTDSs relating to the Onsite Sewage Program in the DOH is transferred by a type two transfer to the DEP. Transferred employees will retain their leave.

Section 3 amends s. 20.255, F.S., relating to the DEP. The bill revises the number of Cabinet members that are required to concur with the Governor to approve the secretary of the DEP from three members to one member of the Cabinet.

Section 4 amends s. 373.036, F.S., relating to the Florida water plan and district water management plans. The bill adds the Office of Economic and Demographic Research (EDR) to the list of entities each water management district (WMD) must submit its consolidated WMD annual report. As part of a five year work program included in the report, the bill clarifies that projects to connect OSTDSs to central sewerage systems and convert OSTDSs to enhanced nutrient reducing systems will be included in the specific projects identified to implement a BMAP.

Section 5 amends s. 373.223, F.S., relating to conditions for a consumptive use permit. The bill requires a unanimous vote by a WMD governing board to approve a consumptive use permit. The board must find that that the applicant's use:
- Is a reasonable-beneficial use;
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.

This provision expires on June 30, 2022.

The bill also requires the DEP, in coordination with the WMD, to conduct a study on the bottled water industry in the state. The study must:

- Identify all springs statewide that have an associated consumptive use permit for a bottled water facility producing its product with water derived from a spring as well as:
  - The magnitude of the spring;
  - Whether the spring has been identified as an Outstanding Florida Spring;
  - Any DEP or WMD adopted minimum flow or minimum water levels, the status of any adopted minimum flow or minimum water levels, and any associated recovery or prevention strategy;
  - The permitted and actual use associated with the consumptive use permits;
  - The reduction in flow associated with the permitted and actual use associated with the consumptive use permits;
  - The impact bottled water facilities have on springs as compared to other users; and
  - The types of water conservation measures employed at bottled water facilities permitted to derive water from a spring.
- Identify the labeling and marketing regulations associated with the identification of bottled water as spring water, including whether these regulations incentivize the withdrawal of water from springs.
- Evaluate the direct and indirect economic benefits to the local communities resulting from bottled water facilities that derive water from springs, including but not limited to tax revenue, job creation, and wages.
- Evaluate the direct and indirect costs to the local communities located in proximity to springs impacted by withdrawals from bottled water production, including but not limited to, the decreased recreational value of the spring and the cost to other users for the development of alternative water supply or reductions in permit durations and allocations.
- Include a cost-benefit analysis of withdrawing, producing, marketing, selling, and consuming spring water as compared to other sources of bottled water.
- Evaluate how much bottled water derived from Florida springs is sold in this state.

The bill requires the DEP to submit a report containing the findings of the study to the Governor, the Legislature, and the EDR by June 30, 2021.

The bill defines the term "bottled water" to mean a beverage that is processed in compliance with federal law and the term "water derived from a spring" to mean water derived from an underground formation from which water flows naturally to the surface of the earth as spring water.

Section 6 amends s. 373.4131, F.S., relating to statewide environmental resource permitting (ERPs). The bill requires the DEP to train its staff on field inspections of stormwater structural controls, such as stormwater retention or detention ponds.

By January 1, 2021:

- The DEP and the water management districts (WMDs) must initiate rulemaking, including updates to the Environmental Resource Permit Applicant's Handbooks, to update the stormwater design and operation regulations using the most recent scientific information available. As part of rule development, DEP must consider and address low-impact design

BMPs and design criteria that increase the removal of nutrients from stormwater discharges, and measures for consistent application of the net improvement performance standard to ensure significant reductions of any pollutant loadings to a waterbody; and

- The DEP must evaluate inspection data relating to compliance by those entities that submit self-certification stormwater ERPs and must provide the Legislature with recommendations for improvements to the self-certification.

Note: More stringent stormwater rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[276]

Section 7 amends s. 381.0065, F.S., relating to OSDTS regulation, effective July 1, 2021, to coincide with the DEP's role as the regulating entity for OSTDSs.

The bill requires the DEP to adopt rules to locate OSTDSs, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process must be completed by July 1, 2022. The rules must consider conventional and advanced OSTDS designs, impaired or degraded water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the OSTDS remediation plans developed as part of the basin management action plans (BMAPs), nutrient pollution, and the recommendations of the OSTDS technical advisory committee created by the bill.

Upon the effective date of these rules, the rules will supersede existing statutory revisions relating to setbacks. The DEP must report the effective date of the rules to the Division of Law Revision for incorporation into the statutes.

The bill deletes language that is inconsistent with these provisions. The bill also deletes the OSTDS research review and advisory committee and related provisions.

Note: New OSTDS rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[277]

Section 8 amends s. 381.0065, F.S., relating to OSDTS regulation, to require the DEP to implement a fast-track approval process for the use in this state of American National Standards Institute 245 systems approved by NSF International before July 1, 2020, to meet the requirements of a TMDL. This provision takes effect on July 1, 2020.

Section 9 creates s. 381.00652, F.S., to create an OSTDS technical advisory committee (TAC) within the DEP.

[276] Section 120.541, F.S.
[277] *Id.*

The responsibilities of the TAC are to:

- Provide recommendations to increase the availability in the marketplace of nutrient-removing OSTDSs, including systems that are cost-effective, low-maintenance, and reliable.
- Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing OSTDSs that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the NSF International.
- Provide recommendations for appropriate setback distances for OSTDSs from surface water, groundwater, and wells.

The DEP must use existing and available resources to administer and support the activities of the TAC.

By August 1, 2021, the DEP, in consultation with the DOH, will appoint 10 members to the TAC:

- A professional engineer.
- A septic tank contractor.
- Two representatives from the home building industry.
- A representative from the real estate industry.
- A representative from the OSTDS industry.
- A representative from local government.
- Two representatives from the environmental community.
- A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

Members will serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

By January 1, 2022, the TAC will submit its recommendations to the Governor and the Legislature.

The TAC is repealed on August 15, 2022.

Section 10 repeals the DOH's technical review and advisory panel, effective July 1, 2021.

Section 11 amends s. 403.061, F.S., which sets out the DEP's powers and duties. The bill requires the DEP rules to reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and inflow and infiltration.

The bill authorizes the DEP to require public utilities or their affiliated companies holding, applying for, or renewing a domestic wastewater discharge permit to file annual reports and other data regarding transactions or allocations of common costs among the utility's permitted systems. The DEP may require such reports or other data necessary to ensure a permitted entity is reporting expenditures on pollution mitigation and prevention, including, but not limited to,

the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The DEP is required to adopt rules to implement this subsection.

Note: Such rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[278]

Section 12 creates s. 403.0616, F.S., to establish a real-time water quality monitoring program within the DEP, subject to appropriation. The program's purpose is to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources. The DEP is encouraged to form public-private partnerships with established scientific entities with existing, proven real-time water quality monitoring equipment and experience in deploying such equipment.

Section 13 amends s. 403.067(7), F.S., relating to basin management action plans (BMAPs), to set out parameters for an OSTDS remediation plan and a wastewater treatment plan. It prohibits the DEP from requiring a higher cost option for a wastewater project within a BMAP if it achieves the same nutrient load reduction as a lower-cost option. It allows a regulated entity to choose a different cost option if it complies with the pollutant reduction requirements of an adopted TMDL and provides additional benefits. It also requires an agricultural element as part of a BMAP and makes revisions relating to agricultural best management practices (BMPs).

If the DEP identifies domestic wastewater facilities or OSTDSs as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the DEP determines that remediation is necessary to achieve the total maximum daily load (TMDL), the BMAP for a nutrient TMDL must create a wastewater treatment plan and/or an OSTDS remediation plan.

A wastewater treatment plan must address domestic wastewater and be developed by each local government in cooperation with the DEP, the WMD, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

- Provide for construction, expansion, or upgrades necessary to achieve the TMDL requirements applicable to the domestic wastewater facility.
- Include: the permitted capacity in average annual gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the BMAP no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a TMDL. The bill clarifies that a local government is not responsible for a

[278] *Id.*

private domestic wastewater facility's compliance with a BMAP unless such facility is operated through a public-private partnership to which the local government is a party.

An OSTDS remediation plan must be developed by each local government in cooperation with the DEP, the DOH, the WMDs, and public and private domestic wastewater facilities. The OSTDS remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for OSTDSs. To identify cost-effective and financially feasible projects for remediation of OSTDSs, the local government shall:

- Include an inventory of OSTDSs based on the best information available;
- Identify OSTDSs that would be eliminated through connection to existing or future central wastewater infrastructure, that would be replaced with or upgraded to enhanced nutrient-reducing systems, or that would remain on conventional OSTDSs;
- Estimate the costs of potential OSTDS connections, upgrades, or replacements; and
- Identify deadlines and interim milestones for the planning, design, and construction of projects.

The DEP must adopt the OSTDS remediation plan as part of the BMAP no later than July 1, 2025, or as required by existing law for Outstanding Florida Springs.

At least every two years, the Department of Agriculture and Consumer Services (DACS) must perform on-site inspections of each agricultural producer that enrolls in a BMP to ensure that such practice is being properly implemented. Verification must include a collection and review of the BMP documentation from the previous two years required by the rule adopted by the DACS, including, but not limited to, nitrogen and phosphorus fertilizer application records. This information shall be provided to the DEP. The DACS must initially prioritize the inspection of agricultural producers located in the BMAPs for Lake Okeechobee, the Indian River Lagoon, the Caloosahatchee River and Estuary, and Silver Springs.

The bill creates a cooperative agricultural regional water quality improvement element as part of a BMAP. The DEP, the DACS, and owners of agricultural operations in the basin must develop a cooperative agricultural regional water quality improvement element as part of a BMAP only if:

- Agricultural measures have been adopted and implemented by the DACS and the waterbody remains impaired;
- Agricultural nonpoint sources contribute to at least 20 percent of nonpoint source nutrient discharges; and
- The DEP determines that additional measures, in combination with state-sponsored regional projects and other management strategies included in the BMAP, are necessary to achieve the total maximum daily load.

The element must be implemented through the use of cost-sharing projects and must include cost-effective and technically and financially practical cooperative regional agricultural nutrient reduction projects that can be implemented on private properties on a site-specific, cooperative basis. These projects may include land acquisition in fee or conservation easements on the lands of willing sellers and site-specific water quality improvement or dispersed water management projects on the lands of project participants.

To qualify for participation in the element, the participant must have already implemented the interim measures, BMPs, or other measures adopted by the DACS. The element may be included in the BMAP as a part of the next five-year assessment. The DEP may submit a legislative budget request to fund projects under the element.

The bill requires the DACS, in cooperation with the University of Florida Institute of Food and Agricultural Sciences, and other state universities and Florida College System institutions with agricultural research programs to annually develop research plans and legislative budget requests to:

- Evaluate and suggest enhancements to the existing adopted BMPs to reduce nutrient runoff;
- Develop new BMPs that, if proven effective, the DACS may adopt by rule; and
- Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to BMPs. The DEP may consider these projects for inclusion in a BMAP. These nutrient runoff reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the BMAP.

To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the DEP and the DACS, by August 1, 2020, for the 2020-2021 fiscal year, and by May 1 for each subsequent fiscal year.

Section 14 creates s. 403.0671, F.S., relating to BMAP wastewater reports. The bill requires the DEP, by July 1, 2021, in coordination with county health departments, wastewater treatment facilities, and other governmental entities, to submit a report to the Governor and the Legislature evaluating the costs of wastewater projects identified in BMAPs, OSTDS remediation plans, and other restoration plans developed to meet TMDLs. The report must include:

- Projects to replace OSTDSs with enhanced nutrient removing OSTDSs; install or retrofit OSTDSs with enhanced nutrient removing technologies; construct, upgrade, or expand domestic wastewater treatment facilities to meet the wastewater treatment plan; and connect OSTDSs to domestic wastewater treatment facilities;
- The estimated costs, nutrient load reduction estimates, and other benefits of each project;
- The estimated implementation timeline for each project;
- A proposed five-year funding plan for each project and the source and amount of financial assistance the DEP, the WMD, or other project partner will make available to fund the project; and
- The projected costs of installing enhanced nutrient removing OSTDSs on buildable lots in priority focus areas to comply with statutory restrictions on the activities allowed in such areas.

The bill requires the DEP to submit a report to the Governor and the Legislature by July 1, 2021, that provides an assessment of the water quality monitoring being conducted for each BMAP implementing a nutrient TMDL. The bill specifies that the DEP may coordinate with the WMDs and any applicable university in developing the report. The bill requires the report to:

- Evaluate the water quality monitoring prescribed for each BMAP to determine if it is sufficient to detect changes in water quality caused by the implementation of a project;

- Identify gaps in water quality monitoring; and
- Recommend ways to address water quality needs.

The bill requires the DEP, beginning January 1, 2022, to submit annual cost estimates for projects listed in the wastewater treatment plans or OSTDS remediation plans to the EDR, and requires the EDR to include the estimates in its annual assessment of water resources and conservation lands.

Section 15 creates s. 403.0673, F.S., a wastewater grant program within the DEP. Subject to appropriation, the DEP may provide grants for projects that will reduce excess nutrient pollution for:

- Projects to retrofit OSTDSs to upgrade them to nutrient-reducing OSTDSs.
- Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
- Projects to connect OSTDSs to central sewer facilities.

In allocating such funds, first priority must be given to projects that subsidize the connection of OSTDSs to a wastewater treatment plant. Second priority must be given to any expansion of a collection or transmission system that promotes efficiency by planning the installation of wastewater transmission facilities to be constructed concurrently with other construction projects along a transportation right-of-way. Third priority must be given to all other connections of onsite sewage treatment and disposal systems to wastewater treatment plants.
In determining priorities, the DEP must consider:

- The estimated reduction in nutrient load per project;
- Project readiness;
- Cost-effectiveness of the project;
- The overall environmental benefit of a project;
- The location of a project within the plan area;
- The availability of local matching funds; and
- Projected water savings or quantity improvements associated with a project.

Each grant must require a minimum of a 50 percent local match of funds. However, the DEP may waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity. The DEP and the WMDs will coordinate to identify grant recipients in each district.

Beginning January 1, 2021, and each January 1 thereafter, the DEP must submit a report regarding the projects funded by the grant program to the Governor and the Legislature.

Section 16 creates s. 403.0855, F.S., on biosolids management. The bill provides legislative findings and requires the DEP to adopt rules for biosolids management. The bill requires all biosolids application sites to meet the DEP rules in effect at the time of the renewal of the biosolids application site permit or facility permit, effective July 1, 2020.

The bill specifies that a municipality or county may enforce or extend an ordinance, regulation, resolution, rule, moratorium, or policy that was adopted prior to November 1, 2019, relating to the land application of Class B biosolids until repealed by the municipality or county.

The bill requires a biosolids land application site permittee to:

- Conduct the land application of biosolids in accordance with adopted BMAPs.
- Establish a groundwater monitoring program approved by the DEP for land application sites when:
  - The application rate in the nutrient management plan exceeds more than 160 pounds per acre per year of total plant available nitrogen or 40 pounds per acre per year of total P2O5; or
  - The soil capacity index is less than 0 mg/kg.
- When soil fertility testing indicates the soil capacity index has become less than 0 mg/kg, establish a groundwater monitoring program in accordance with the DEP rules within one year of the date of the sampling results.
- When groundwater monitoring is not required, allow the DEP to install groundwater monitoring wells at any time during the effective period of the DEP-issued facility or land application site permit and conduct monitoring.
- Ensure a minimum unsaturated soil depth of two feet between the depth of biosolids placement and the water table level at the time the Class A or Class B biosolids are applied to the soil. Biosolids may not be applied on soils that have a seasonal high-water table less than 15 centimeters from the soil surface or within 15 centimeters of the intended depth of biosolids placement. As used in this section, the term "seasonal high water" means the elevation to which the ground and surface water may be expected to rise due to a normal wet season.
- Be enrolled in the DACS BMP Program or be within an agricultural operation enrolled in the program for the applicable commodity type.

The bill repeals the provision providing requirements for biosolids land application site permittees upon the effective date of biosolids rules adopted the by DEP after July 1, 2020.

Section 17 amends s. 403.086, F.S., relating to sewage disposal facilities.

The bill prohibits facilities for sanitary sewage disposal from disposing of waste into Indian River Lagoon or its tributaries without providing for advanced waste treatment, beginning July 1, 2025.

The bill requires the DEP, by December 31, 2020, to submit a progress report to the Governor and the Legislature that provides the status of upgrades made by each wastewater treatment facility discharging into specified waterbodies to meet the advanced waste treatment requirements. The report must include a list of sewage disposal facilities that will be required to upgrade to advanced waste treatment, the preliminary cost estimates for the upgrades, and a projected timeline for the upgrades.

The bill requires facilities for sanitary sewage disposal to have a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations.

All facilities for sanitary sewage that control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility must take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that

collected waste water reaches the facility for appropriate treatment. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans with at least a five-year planning horizon which comply with the DEP rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. These facility action plans must be reported to the DEP. The facility report must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and replacement action plans required herein; expenditures dedicated to pipe assessment, repair, and replacement; and expenditures designed to limit the presence of fats, roots, oils, and grease in the utility's collection system.

The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys. These rules may not fix or revise utility rates or budgets. The bill clarifies that a utility, that must submit annual reports under other similar provisions created by the bill, may submit one report to comply with both provisions.
Substantial compliance with the action plan described above is evidence in mitigation for the purposes of assessing certain penalties.

Note: Such rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[279]

Section 18 amends s. 403.087, F.S., to require the DEP to issue operating permits for up to 10 years (rather than up to five) for facilities regulated under the National Pollutant Discharge Elimination System Program if the facility is meeting the stated goals in the action plan relating to the prevention of sanitary sewer overflows or underground pipe leaks.

Section 19 amends s. 403.088, F.S., relating to water pollution operation permits. The bill requires the permit to include a deliberate, proactive approach to investigating or surveying a significant percentage of the domestic wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner.

The permittee must submit an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule. The report must detail any deviation from annual expenditures related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement.

Substantial compliance with the requirements above is evidence in mitigation for the purposes of assessing penalties.

No later than March 1 of each year, the DEP must submit a report to the Governor and the Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility name or responsible operating entity name; permitted capacity in annual average gallons per day; number of overflows; type of water discharged; total volume of sewage released; and, to the extent known and available, the

[279] *Id.*

volume of sewage recovered, the volume of sewage discharged to surface waters, and the cause of the sanitary sewer overflow, including whether it was caused by a third party.

Note: Rules required to implement this section would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[280]

Section 20 amends s. 403.0891, F.S., to require the DEP and the Department of Economic Opportunity to develop model ordinances that target nutrient reduction practices and use green infrastructure.

Section 21 amends s. 403.121, F.S., to increase the cap on the DEP's administrative penalties from $10,000 to $50,000. It also doubles all wastewater administrative penalties.

The bill provides that "failure to comply with wastewater permitting requirements or rules adopted thereunder will result in a $4,000 penalty.

Section 22 amends s. 403.1835, F.S., relating to water pollution control financial assistance. This is the section of law that sets out how the DEP administers the Clean Water State Revolving Loan Fund. The bill adds categories to the list of projects that should receive priority for funding. This includes:

- Projects that implement the requirements of the bill relating to wastewater infrastructure maintenance planning or reporting requirements created by the bill.
- Projects that promote efficiency by planning for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 23 amends s. 403.1838, F.S., to require that rules related to prioritization of funds for the Small Community Sewer Construction Assistance Grant Program include the:

- Prioritization of projects that prevent pollution, and
- Projects that plan for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 24 amends s. 403.412, F.S., relating to the Environmental Protection Act. The bill amends the Florida Environmental Protection Act to prohibit, unless otherwise authorized by law or specifically granted in the State Constitution, a local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law:

- From recognizing or granting any legal right to a plant, animal, body of water, or any other part of the natural environment that is not a person or political subdivision; or
- From granting a person or political subdivision any specific rights relating to the natural environment.

The bill provides that the prohibition on granting rights to nonpersons does not limit:

[280] *Id.*

- The power of an adversely affected party to challenge the consistency of a development order with a comprehensive plan or to file an action for injunctive relief to enforce the terms of a development agreement or to challenge compliance of the agreement with the Florida Local Government Development Agreement Act; or
- The standing of the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state to maintain an action for injunctive relief as otherwise provided by the EPA.

Section 25 provides a statement that this act fulfills an important state interest.

Sections 26 through 51 make conforming changes.

Section 52 directs the Division of Law Revision to replace certain language in the bill with the date the DEP adopts certain rules on OSTDSs as required by the bill.

Section 53 states that except as otherwise expressly provided in the bill, the act will take effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply to this bill because it requires local governments to develop OSTDS remediation plans and wastewater treatment plans. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

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 following discussion identifies aspects of the bill that may cause a negative fiscal impact because they implement more stringent environmental requirements. However, it is worth noting that there are costs associated with failing to address pollution issues. Cleanup costs, human health impacts, ecosystem deterioration, loss of tourism, and decreased real estate values are some key examples of possible costs associated with pollution.

Updating stormwater rules and adopting new onsite sewage treatment disposal systems (OSTDS) and wastewater rules would likely cause a negative fiscal impact to the private sector. However, if that impact exceeds $1 million over five years, the rules will require legislative ratification, which means they will not go into effect without additional legislation.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to the private sector entities within basin management action plans (BMAPs) that must address OSTDS or wastewater pollution to meet the total maximum daily load.

Private wastewater utilities that discharge into Indian River Lagoon may have costs associated to conversion to advanced waste treatment.

Utilities that fail to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration will be subject to a $4,000 fine for each violation. All wastewater administrative penalties are doubled under this bill. The cap on the Department of Environmental Protection's administrative penalties is increased to $50,000 from $10,000.

C. Government Sector Impact:

The DEP will incur additional costs in developing multiple new regulatory programs, updating BMAPs, and developing, submitting, and reviewing new reports.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to local governments that must address OSTDS or wastewater pollution to meet their TMDL. However, there is flexibility in how these plans are developed, which makes these costs speculative and subject to the development of each specific OSTDS remediation plan or wastewater treatment plan.

There may be a negative fiscal impact to the public to implement the cooperative agricultural regional water quality improvement element. However, this may be offset by lowered pollution costs.

The implementation of a real-time water quality monitoring program will have a negative fiscal impact on the DEP, but this provision is subject to appropriation.

The wastewater grant program would have a positive fiscal impact on local governments, but this provision is subject to appropriation. The DEP will likely incur some costs associated with the development of this grant program and the report to the Governor and the Legislature. The DEP can absorb these costs within existing resources.

Public wastewater utilities that discharge into Indian River Lagoon may have costs associated with conversion to advanced waste treatment. However, the local governments in the region are spending substantial amounts on pollution cleanup. Lessening the pollutants in this waterbody may have a positive fiscal impact in the long term.

There is likely a negative fiscal impact to both the public and private sectors to meet the requirements of the new provisions relating to biosolids. There may be a long-term positive fiscal impact as a result of reduced cleanup costs and reduced damage to the natural systems associated with more rigorous land application requirements.

The increase in administrative penalties will likely have an indeterminate yet positive fiscal impact on the DEP.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.255, 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.036, 373.223, 373.250, 373.414, 373.4131, 373.705, 373.707, 373.709, 373.807, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.0065, 381.00651, 381.0101, 403.061, 403.067, 403.086, 403.08601, 403.087, 403.0871, 403.0872, 403.088, 403.0891, 403.121, 403.1835, 403.1838, 403.412, 403.707, 403.861, 489.551, and 590.02.

This bill creates the following sections of the Florida Statutes: 381.00652, 403.0616, 403.0671, 403.0673, and 403.0855.

This bill repeals section 381.0068 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 20, 2020:
The committee substitute revises the title of the bill to "An act relating to environmental resource management" and:

- Revises appointment by the Governor of the Secretary of the DEP to require concurrence by one Cabinet member.
- Requires a unanimous vote by the governing board of a water management district to approve a consumptive use permit to use water from a spring for bottled water (provision expires on June 30, 2022).
- Requires the DEP to conduct a study on the bottled water industry in Florida.
- Revises the requirements of the consolidated water management district annual report.
- Adds updates to the Environmental Resource Permit Applicant's Handbooks to the requirement that the DEP and water management districts update stormwater design and operation regulations, and includes factors that the DEP must consider in rulemaking.
- Requires the DEP to implement a fast track-approval process for the use in Florida of NSF/ANSI 245 septic systems approved before July 1, 2020 to meet TMDL requirements.
- Deletes the septic research review and advisory committee.
- Adds an additional representative of the home building industry to the septic technical advisory committee, for a total of 10 members.
- Requires a BMAP to include an estimated allocation of the pollutant load reduction for each point source or category of point sources.
- Provides that a local government is not responsible for a private domestic wastewater facility's compliance with a BMAP unless the facility is operated through a public-private partnership to which the local government is a party.
- For wastewater projects in a BMAP, allows a regulated entity to choose a different cost option if it complies with the pollutant reduction requirements of an adopted TMDL and provides additional benefits.
- Requires the DACS to prioritize the inspection of agricultural producers located in the BMAPs for Lake Okeechobee, the Indian River Lagoon, the Caloosahatchee River and Estuary, and Silver Springs.
- Authorizes BMAPs to include cooperative agricultural regional water quality improvements (agricultural element), in addition to existing strategies such as BMPs and interim measures, if agricultural measures have been implemented and the water body remains impaired, agricultural nonpoint sources contributed to at least 20 percent of nonpoint source nutrient discharges, and the DEP determines that additional measures are necessary to achieve the TMDL.
- Authorizes legislative budget requests to fund cooperative regional agricultural nutrient reduction projects.
- Requires the DEP to work with UF/IFAS and regulated entities to consider the adoption by rule of BMPs for nutrient impacts from golf courses.
- Requires the DEP to submit various reports to the Governor and the Legislature regarding:
    - The costs of wastewater projects identified in BMAPs, septic remediation plans, and other restoration plans developed to meet TMDLs.
    - An assessment of the water quality monitoring being conducted for each BMAP implementing a nutrient TMDL.

  - The status of upgrades made by each wastewater treatment facility discharging into specified waterbodies to meet advanced waste treatment requirements.
- Provides requirements for biosolids application site permittees including a prohibition on application of biosolids within 15 centimeters of the seasonal high-water table, adopting agricultural BMPs, and increasing monitoring requirements. Many of these requirements are repealed once the DEP rules go into effect.
- Revises the requirement that facilities for sanitary sewage disposal develop pipe assessment, repair, and replacement action plans in the underlying bill to require the action plans to have a five-year planning horizon.
- Prohibits local governments from providing legal rights to any plant, animal, body of water, or other part of the natural environment unless otherwise specifically authorized by state law or the State Constitution.
- Corrects the name of the "National Sanitation Foundation" because it changed its name to "NSF International";
- Clarifies that a local government is not responsible for a private wastewater facility's compliance with a Basin Management Action Plan (BMAP);
- Clarifies that the records collected by the Department of Agriculture and Consumer Services (DACS) during their inspections include nitrogen and phosphorus fertilizer application records;
- Clarifies that wastewater infrastructure projects that comply with the sanitary sewer overflow, leakage, and infiltration and inflow requirements of the bill will receive priority funding from the state revolving loan fund by moving the prioritization to the section of law governing the state revolving loan fund;
- Clarifies that the Department of Environmental Protection (DEP) may not fix or revise utility rates of budgets;
- Clarifies that utilities that need to report on infiltration and inflow and leakage only need to submit one report to the DEP annually;
- Increases the cap on the DEP's administrative penalties to $50,000 from $10,000;
- Doubles the wastewater administrative penalties;
- Provides incentives for projects that promote efficiency by coordinating wastewater infrastructure expansions with other infrastructure improvements occurring within of along a transportation facility right-of-way;
- Includes these incentives in the small community sewer construction assistance program, the state revolving loan program, and the new wastewater grant program created by the bill;
- Clarifies that local governments with biosolids ordinances may retain those ordinance until repealed;
- Requires the DACS to provide information collected from on-site inspections of each agricultural producer enrolled in a best management practice (BMP) to the DEP. These on-site inspections are required at least every two years.

CS by Community Affairs on December 9, 2019:
The committee substitute:
- Effectuates a type two transfer of septic system oversight from the DOH to DEP rather than just requiring a report;
- Requires DEP to develop rules relating to the location of septic systems;

- Revises language related to DEP updating its stormwater rules;
- Requires DEP to make recommendations to the Legislature on self-certification of stormwater permits rather than prohibiting the use of self-certification in BMAP areas;
- Leaves the BMAP process for Outstanding Florida Springs while revising the requirement for OSTDS remediation plans and adding a requirement for wastewater treatment plans in the general BMAP statute;
- Requires that these new plans be incorporated into the BMAP by 2025;
- Removes provisions relating to Florida-Friendly Fertilizer Ordinances;
- Adds rural areas of opportunities to the possible grant recipients for the wastewater grant created by the bill;
- Removes provisions that would make agricultural BMPs enforceable earlier and in more impaired waterbodies;
- Adds a requirement that DACS conduct onsite inspections of BMPs at least every two years;
- Adds a requirement that DACS collect and remit certain records relating to agricultural BMPs to DEP;
- Adds language authorizing DACS and certain institutions of higher education to submit budget requests for certain activities relating to the improvement of agricultural BMPs;
- Removes the provision requiring additional notification and penalties related to sanitary sewer overflows and replaces it with numerous requirements relating to the prevention of sanitary sewer overflows, inflow and infiltration, and leakage;
- Removes provisions increasing penalties but adds "failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration" to the penalty schedule;
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and Legislature regarding the regulation of OSTDSs;
- Requires DEP to adopt rules relating to biosolids management and exempts such rules from legislative ratification if they are adopted before the 2021 legislative session.
- Directs the Division of Law Revision to incorporate the date of rule adoption into the statutes.

B. Amendments:

None.

By the Committee on Community Affairs; and Senator Mayfield

578-02008A-20 2020712c1

A bill to be entitled

An act relating to water quality improvements; providing a short title; requiring the Department Health to provide a specified report to the Governor and the Legislature by a specified date; requiring the Department of Health and the Department of Environmental Protection to submit to the Governor and the Legislature, by a specified date, certain recommendations relating to the transfer of the Onsite Sewage Program; requiring the departments to enter into an interagency agreement that meets certain requirements by a specified date; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection by a type two transfer by a specified date; providing that certain employees retain and transfer certain types of leave upon the transfer; amending s. 373.4131, F.S.; requiring the Department of Environmental Protection to include stormwater structural controls inspections as part of its regular staff training; requiring the department and the water management districts to adopt rules regarding stormwater design and operation by a specified date; amending s. 381.0065, F.S.; conforming provisions to changes made by the act; requiring the department to adopt rules for the location of onsite sewage treatment and disposal systems and complete such rulemaking by a specified date; requiring the department to evaluate certain data relating to the self-certification program and provide the Legislature

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with recommendations by a specified date; providing that certain provisions relating to existing setback requirements are applicable to permits only until the adoption of certain rules by the department; creating s. 381.00652, F.S.; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; providing the duties and membership of the committee; requiring the committee to submit a report to the Governor and the Legislature by a specified date; providing for the expiration of the committee; repealing s. 381.0068, F.S., relating to a technical review and advisory panel; amending s. 403.061, F.S.; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file certain reports and data with the department; creating s. 403.0616, F.S.; requiring the department, subject to legislative appropriation, to establish a real-time water quality monitoring program; encouraging the formation of public-private partnerships; amending s. 403.067, F.S.; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system remediation plans that meet certain requirements; requiring the Department of Agriculture and Consumer Services to collect fertilization and nutrient records

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

from certain agricultural producers and provide the information to the department annually by a specified date; requiring the Department of Agriculture and Consumer Services to perform onsite inspections of the agricultural producers at specified intervals; authorizing certain entities to develop research plans and legislative budget requests relating to best management practices by a specified date; creating s. 403.0673, F.S.; establishing a wastewater grant program within the Department of Environmental Protection; authorizing the department to distribute appropriated funds for certain projects; providing requirements for the distribution; requiring the department to coordinate with each water management district to identify grant recipients; requiring an annual report to the Governor and the Legislature by a specified date; creating s. 403.0855, F.S.; providing legislative findings regarding the regulation of biosolids management in this state; requiring the department to adopt rules for biosolids management; exempting the rules from a specified statutory requirement; amending s. 403.086, F.S.; prohibiting facilities for sanitary sewage disposal from disposing of any waste in the Indian River Lagoon beginning on a specified date without first providing advanced waste treatment; requiring facilities for sanitary sewage disposal to have a power outage contingency plan; requiring the facilities to take steps to prevent overflows and leaks and ensure that the water reaches

the appropriate facility for treatment; requiring the facilities to provide the Department of Environmental Protection with certain information; requiring the department to adopt rules; amending s. 403.087, F.S.; requiring the department to issue operation permits for domestic wastewater treatment facilities to certain facilities under certain circumstances; amending s. 403.088, F.S.; revising the permit conditions for a water pollution operation permit; requiring the department to submit a report to the Governor and the Legislature by a specified date identifying all wastewater utilities that experienced sanitary sewer overflows within a specified timeframe; amending s. 403.0891, F.S.; requiring model stormwater management programs to contain model ordinances for nutrient reduction practices and green infrastructure; amending s. 403.121, F.S.; providing civil penalties; amending s. 403.885, F.S.; requiring the department to give certain domestic wastewater utilities funding priority within the Water Projects Grant Program; providing a declaration of important state interest; amending ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.705, 373.707, 373.709, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.00651, 403.08601, 403.0871, 403.0872, 403.1835, 403.707, 403.861, 489.551, and 590.02, F.S.; conforming cross-references and provisions to changes made by the act; providing a directive to the Division of Law Revision upon the adoption of certain rules by

the Department of Environmental Protection; providing effective dates.

WHEREAS, nutrients negatively impact groundwater and surface waters in this state and cause the proliferation of algal blooms, and

WHEREAS, onsite sewage treatment and disposal systems were designed to manage human waste and are permitted by the Department of Health for that purpose, and

WHEREAS, conventional onsite sewage treatment and disposal systems contribute nutrients to groundwater and surface waters across this state which can cause harmful blue-green algal blooms, and

WHEREAS, many stormwater systems are designed primarily to divert and control stormwater rather than to remove pollutants, and

WHEREAS, most existing stormwater system design criteria fail to consistently meet either the 80 percent or 95 percent target pollutant reduction goals established by the Department of Environmental Protection, and

WHEREAS, other significant pollutants often can be removed from stormwater more easily than nutrients and, as a result, design criteria that provide the desired removal efficiencies for nutrients will likely achieve equal or better removal efficiencies for other constituents, and

WHEREAS, the Department of Environmental Protection has found that the major causes of sanitary sewer overflows during storm events are infiltration, inflow, and acute power failures, and

WHEREAS, the Department of Environmental Protection lacks statutory authority to regulate infiltration and inflow or to require that all lift stations constructed prior to 2003 have emergency backup power, and

WHEREAS, sanitary sewer overflows and leaking infrastructure create both a human health concern and a nutrient pollution problem, and

WHEREAS, the agricultural sector is a significant contributor to the excess delivery of nutrients to surface waters throughout this state and has been identified as the dominant source of both phosphorus and nitrogen within the Lake Okeechobee watershed and a number of other basin management action plan areas, and

WHEREAS, only 75 percent of eligible agricultural parties within the Lake Okeechobee Basin Management Action Plan area are enrolled in an appropriate best management practice and enrollment numbers are considerably less in other basin management action plan areas, and

WHEREAS, although agricultural best management practices, by design, should be technically feasible and economically viable, that does not imply that their adoption and full implementation, alone, will alleviate downstream water quality impairments, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Clean Waterways Act."

Section 2. (1) By July 1, 2020, the Department of Health

must provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the following information regarding the Onsite Sewage Program:

(a) The average number of permits issued each year;

(b) The number of department employees conducting work on or related to the program each year; and

(c) The program's costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.

(2) By December 31, 2020, the Department of Health and the Department of Environmental Protection shall submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the transfer of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the Department of Environmental Protection.

(3) By June 30, 2021, the Department of Health and the Department of Environmental Protection shall enter into an interagency agreement based on the Department of Health report required under subsection (2) and on recommendations from a plan that must address all agency cooperation for a period not less than 5 years after the transfer, including:

(a) The continued role of the county health departments in the permitting, inspection, data management, and tracking of

onsite sewage treatment and disposal systems under the direction of the Department of Environmental Protection.

(b) The appropriate proportionate number of administrative, auditing, inspector general, attorney, and operational support positions, and their related funding levels and sources and assigned property, to be transferred from the Office of General Counsel, the Office of Inspector General, and the Division of Administrative Services or other relevant offices or divisions within the Department of Health to the Department of Environmental Protection.

(c) The development of a recommended plan to address the transfer or shared use of buildings, regional offices, and other facilities used or owned by the Department of Health.

(d) Any operating budget adjustments that are necessary to implement the requirements of this act. Adjustments made to the operating budgets of the agencies in the implementation of this act must be made in consultation with the appropriate substantive and fiscal committees of the Senate and the House of Representatives. The revisions to the approved operating budgets for the 2021-2022 fiscal year which are necessary to reflect the organizational changes made by this act must be implemented pursuant to s. 216.292(4)(d), Florida Statutes, and are subject to s. 216.177, Florida Statutes. Subsequent adjustments between the Department of Health and the Department of Environmental Protection which are determined necessary by the respective agencies and approved by the Executive Office of the Governor are authorized and subject to s. 216.177, Florida Statutes. The appropriate substantive committees of the Senate and the House of Representatives must also be notified of the proposed

revisions to ensure their consistency with legislative policy and intent.

(4) Effective July 1, 2021, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the regulation of onsite sewage treatment and disposal systems relating to the Onsite Sewage Program in the Department of Health are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Environmental Protection.

(5) Notwithstanding chapter 60L-34, Florida Administrative Code, or any law to the contrary, employees who are transferred from the Department of Health to the Department of Environmental Protection to fill positions transferred by this act retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

Section 3. Subsection (5) of section 373.4131, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

373.4131 Statewide environmental resource permitting rules.—

(5) To ensure consistent implementation and interpretation of the rules adopted pursuant to this section, the department shall conduct or oversee regular assessment and training of its staff and the staffs of the water management districts and local governments delegated local pollution control program authority under s. 373.441. The training must include coordinating field

inspections of publicly and privately owned stormwater structural controls, such as stormwater retention or detention ponds.

(6) By January 1, 2021:

(a) The department and the water management districts shall initiate rulemaking to update the stormwater design and operation regulations using the most recent scientific information available; and

(b) The department shall evaluate inspection data relating to compliance by those entities that self-certify under s. 403.814(12) and provide the Legislature with recommendations for improvements to the self-certification program.

Section 4. Effective July 1, 2021, present paragraphs (d) through (q) of subsection (2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (e) through (r), respectively, a new paragraph (d) is added to that subsection, and subsections (3) and (4) of that section are amended, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the term:

(d) "Department" means the Department of Environmental Protection.

(3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The department shall:

(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, ~~decreases to setback requirements where no~~

~~health hazard exists,~~ increases for the lot-flow allowance for performance-based systems, requirements for separation from water table elevation during the wettest season, requirements for the design and construction of any component part of an onsite sewage treatment and disposal system, application and permit requirements for persons who maintain an onsite sewage treatment and disposal system, requirements for maintenance and service agreements for aerobic treatment units and performance-based treatment systems, and recommended standards, including disclosure requirements, for voluntary system inspections to be performed by individuals who are authorized by law to perform such inspections and who shall inform a person having ownership, control, or use of an onsite sewage treatment and disposal system of the inspection standards and of that person's authority to request an inspection based on all or part of the standards.

(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an onsite sewage treatment and disposal system for a residence or establishment with an estimated domestic sewage flow of 10,000 gallons or less per day, or an estimated commercial sewage flow of 5,000 gallons or less per day, which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, sited, repaired, modified, abandoned, used, operated, and maintained in

compliance with this section and rules adopted under this section to prevent groundwater contamination, including impacts from nutrient pollution, and surface water contamination and to preserve the public health. The department is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule interpretation, the secretary of the department ~~State Surgeon General~~, or his or her designee, shall timely assign a staff person to resolve the dispute.

(d) Grant variances in hardship cases under the conditions prescribed in this section and rules adopted under this section.

(e) Permit the use of a limited number of innovative systems for a specific period of time, when there is compelling evidence that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.

(f) Issue annual operating permits under this section.

(g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.

(h) Conduct enforcement activities, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted under this section, part I of chapter 386, or part III of chapter 489.

(i) Provide or conduct education and training of department personnel, service providers, and the public regarding onsite sewage treatment and disposal systems.

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects may ~~shall~~ not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee.

(k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.

(l) Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any system regulated under this chapter and not regulated by the

Department of Environmental Protection.

(m) Permit and inspect portable or temporary toilet services and holding tanks. The department shall review applications, perform site evaluations, and issue permits for the temporary use of holding tanks, privies, portable toilet services, or any other toilet facility that is intended for use on a permanent or nonpermanent basis, including facilities placed on construction sites when workers are present. The department may specify standards for the construction, maintenance, use, and operation of any such facility for temporary use.

(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer's specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include: training, access to approved spare parts and components, access to manufacturer's maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section.~~, but shall not make the issuance of such permits contingent upon prior approval by the Department of~~

~~Environmental Protection, except that~~ The issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department ~~of Environmental Protection~~. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained before ~~prior to~~ the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an

onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow

does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department ~~of Health~~, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any

proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) The department shall adopt rules to locate onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process for such rules must be completed by July 1, 2022, and the department shall notify the Division of Law Revision of the date such rules are adopted. The rules must consider conventional and advanced onsite sewage treatment and disposal system designs, impaired or degraded water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to s. 381.00652.

(f) ~~(e)~~ Onsite sewage treatment and disposal systems that are permitted before adoption of the rules identified in paragraph (e) may ~~must~~ not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a

residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

~~(f) Except as provided under paragraphs (c) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.~~

(g) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit

on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than ~~the provisions~~ specified in

this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its

recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

a. The Secretary of Environmental Protection ~~State Surgeon General~~ or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

e. A representative from the Department of Health ~~Environmental Protection~~.

f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem

and travel expenses as provided in s. 112.061.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department may ~~shall~~ not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating

permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality

of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under ~~the provisions of~~ chapter 120.

3. The owner of an engineer-designed performance-based

system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced. The reports may be submitted electronically.

4. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own performance-based treatment system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

5. The property owner shall obtain a biennial system operating permit from the department for each system. The department shall inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into

compliance with ~~the provisions of~~ this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent shall be deemed to be in compliance with this standard.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. In areas not scheduled to be served by a central sewer, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations

as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other ~~provision of~~ law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewer system until December 31, 2020.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be

performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(k) ~~(2)(j)~~. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Secretary of Environmental Protection ~~State Surgeon General~~, or his or her designee.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from local government who is knowledgeable about domestic wastewater treatment.

8. A representative from the real estate profession.

9. A representative from the restaurant industry.

10. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(p) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(q) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(r) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(s) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering may ~~shall~~ not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling

units, the downspouts shall be directed away from the drainfield.

(t) Notwithstanding ~~the provisions of~~ subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield may ~~shall~~ not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or a system approved by the county health department pursuant to department rule other than a system using alternative drainfield materials. The United States Department

of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water may ~~shall~~ not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(u)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. The reports may be submitted electronically.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his

or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

3. A septic tank contractor licensed under part III of chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part's equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(w) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system shall transfer with the title to the property in a real estate transaction. A title may not be

encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction. This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution (1885).

(x) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(y)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(z) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(aa) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed

area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

Section 5. Section 381.00652, Florida Statutes, is created to read:

381.00652 Onsite sewage treatment and disposal systems technical advisory committee.—

(1) An onsite sewage treatment and disposal systems technical advisory committee, a committee as defined in s. 20.03(8), is created within the department. The committee shall:

(a) Provide recommendations to increase the availability in the marketplace of nutrient-removing onsite sewage treatment and disposal systems, including systems that are cost-effective, low-maintenance, and reliable.

(b) Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing

onsite sewage treatment and disposal systems that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the National Sanitation Foundation International.

(c) Provide recommendations for appropriate setback distances for onsite sewage treatment and disposal systems from surface water, groundwater, and wells.

(2) The department shall use existing and available resources to administer and support the activities of the committee.

(3)(a) By August 1, 2021, the department, in consultation with the Department of Health, shall appoint no more than nine members to the committee, including, but not limited to, the following:

1. A professional engineer.

2. A septic tank contractor.

3. A representative from the home building industry.

4. A representative from the real estate industry.

5. A representative from the onsite sewage treatment and disposal system industry.

6. A representative from local government.

7. Two representatives from the environmental community.

8. A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

(b) Members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(4) By January 1, 2022, the committee shall submit its

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

(5) This section expires August 15, 2022.

(6) For purposes of this section, the term "department" means the Department of Environmental Protection.

Section 6. Effective July 1, 2021, section 381.0068, Florida Statutes, is repealed.

Section 7. Present subsections (14) through (44) of section 403.061, Florida Statutes, are redesignated as subsections (15) through (45), respectively, a new subsection (14) is added to that section, and subsection (7) of that section is amended, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(7) Adopt rules ~~pursuant to ss. 120.536(1) and 120.54~~ to implement ~~the provisions of~~ this act. Any rule adopted pursuant to this act must ~~shall~~ be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. A ~~No~~ county, municipality, or political subdivision may not ~~shall~~ adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act may ~~shall~~

not require dischargers of waste into waters of the state to improve natural background conditions. The department shall adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, may ~~shall~~ not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(14) In order to promote resilient utilities, require public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file reports and other data regarding transactions or allocations of common costs among the utility or entity and such affiliated companies. The department may require such reports or other data necessary to ensure a permitted entity is reporting expenditures on pollution mitigation and prevention, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The department shall adopt rules to implement this subsection.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 8. Section 403.0616, Florida Statutes, is created to read:

403.0616 Real-time water quality monitoring program.-

(1) Subject to appropriation, the department shall establish a real-time water quality monitoring program to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources.

(2) In order to expedite the creation and implementation of the program, the department is encouraged to form public-private partnerships with established scientific entities that have proven existing real-time water quality monitoring equipment and experience in deploying the equipment.

Section 9. Subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan

must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When ~~Where~~ appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of

cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least ~~not less than~~ 5 days, but not ~~nor~~ more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan shall include:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;

b. A description of best management practices adopted by rule;

c. A list of projects in priority ranking with a planning-

level cost estimate and estimated date of completion for each listed project;

d. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; and

e. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement ~~the provisions of~~ this section.

6. The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions

than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. ~~The provisions of~~ The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient utilities, if the department identifies domestic wastewater facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan that addresses domestic wastewater developed by each local government in cooperation with the department, the water management district, and the public and private domestic wastewater facilities within the

jurisdiction of the local government. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater facility.

(II) Include the permitted capacity in gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially

feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central wastewater infrastructure, that would be replaced with or upgraded to advanced nutrient-removal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal systems connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option.

(b) *Total maximum daily load implementation.*—

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a

total maximum daily load by a water management district must be consistent with this section and does not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for the adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

a. Permitting and other existing regulatory programs, including water-quality-based effluent limitations;

b. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(22) ~~s. 403.061(21)~~, and public education;

c. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts or basin management action plans developed pursuant to this subsection;

d. Trading of water quality credits or other equitable economically based agreements;

e. Public works including capital facilities; or

f. Land acquisition.

2. For a basin management action plan adopted pursuant to paragraph (a), any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, must be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department may not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the

permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads must be implemented through NPDES permit conditions that provide for a compliance schedule. In such instances, a facility's NPDES permit must allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan may not exceed 5 years. Upon issuance of an order adopting the plan, the permit must be reopened or renewed, as necessary, and permit conditions consistent with the plan must be established. Notwithstanding the other provisions of this subparagraph, upon request by an NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations before the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer system permits and other stormwater sources, implementation of a total maximum daily load or basin management action plan must be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department must be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state, regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan must be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan must demonstrate compliance with the pollutant reductions established under subsection (6) by implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water quality monitoring prescribed by the department or a water management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an

adopted basin management action plan may not be required by permit, enforcement action, or otherwise to implement additional management strategies, including water quality credit trading, to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin management action plan as specified in subparagraph (a)6.

(c) *Best management practices.*—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and

the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including site inspection and recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (12)(b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a

presumption of compliance with state water quality standards and release from ~~the provisions of~~ s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from ~~the provisions of~~ s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure.

Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. The Department of Agriculture and Consumer Services shall collect fertilization and nutrient records from each agricultural producer enrolled in best management practices that address nutrients. These records must include rates of application in pounds per acre; application method; fertilizer type or source; acres covered; formulation of the applied fertilizer, including nitrogen and phosphorus content; location; grade; and dates applied. By each March 1, the Department of Agriculture and Consumer Services shall provide the previous year's records to the department.

6. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3. and 4. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the confidentiality specified by this subparagraph for such records is maintained.

7.~~6.~~ ~~The provisions of~~ Subparagraphs 1. and 2. do not preclude the department or water management district from

requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

(d) *Enforcement and verification of basin management action plans and management strategies.*—

1. Basin management action plans are enforceable pursuant to this section and ss. 403.121, 403.141, and 403.161. Management strategies, including best management practices and water quality monitoring, are enforceable under this chapter.

2. No later than January 1, 2017:

a. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of best management practices or other measures pursuant to sub-subparagraph (b)2.g.;

b. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)1.; and

c. The Department of Agriculture and Consumer Services, in consultation with the water management districts and the department, shall initiate rulemaking to adopt procedures to

verify implementation of agricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph(c)2.

The rules required under this subparagraph shall include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including best management practices or water quality monitoring as a result of noncompliance.

3. At least every 2 years, the Department of Agriculture and Consumer Services shall perform onsite inspections of each agricultural producer that enrolls in a best management practice to ensure that such practice is being properly implemented.

(e) *Data collection and research.*—

1. The Department of Agriculture and Consumer Services, the University of Florida Institute of Food and Agricultural Sciences, and other state universities and Florida College System institutions with agricultural research programs may annually develop research plans and legislative budget requests to:

a. Evaluate and suggest enhancements to the existing adopted agricultural best management practices to reduce nutrients;

b. Develop new best management practices that, if proven effective, the Department of Agriculture and Consumer Services may adopt by rule pursuant to paragraph 403.067(7)(c); and

c. Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to best management practices. The

department may consider these projects for inclusion in a basin management action plan. These nutrient reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the basin management action plan.

2. To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the department and the Department of Agriculture and Consumer Services by August 1 of each year.

Section 10. Section 403.0673, Florida Statutes, is created to read:

403.0673 Wastewater grant program.—A wastewater grant program is established within the Department of Environmental Protection.

(1) Subject to the appropriation of funds by the Legislature, the department may provide grants for the following projects within a basin management action plan, an alternative restoration plan adopted by final order, or a rural area of opportunity under s. 288.0656 which will individually or collectively reduce excess nutrient pollution:

(a) Projects to retrofit onsite sewage treatment and disposal systems to upgrade them to nutrient-reducing onsite sewage treatment and disposal systems.

(b) Projects to construct, upgrade, or expand facilities to provide advanced waste treatment, as defined in s. 403.086(4).

(c) Projects to connect onsite sewage treatment and

disposal systems to central sewer facilities.

(2) In allocating such funds, priority must be given to projects that subsidize the connection of onsite sewage treatment and disposal systems to a wastewater treatment plant. In determining priorities, the department shall consider the estimated reduction in nutrient load per project; project readiness; cost-effectiveness of the project; overall environmental benefit of a project; the location of a project; the availability of local matching funds; and projected water savings or quantity improvements associated with a project.

(3) Each grant for a project described in subsection (1) must require a minimum of a 50 percent local match of funds. However, the department may, at its discretion, waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

(4) The department shall coordinate with each water management district, as necessary, to identify grant recipients in each district.

(5) Beginning January 1, 2021, and each January 1 thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 11. Section 403.0855, Florida Statutes, is created to read:

403.0855 Biosolids management.—The Legislature finds that it is in the best interest of this state to regulate biosolids management in order to minimize the migration of nutrients that

impair waterbodies. The Legislature further finds that the expedited implementation of the recommendations of the Biosolids Technical Advisory Committee, including permitting according to site-specific application conditions, an increased inspection rate, groundwater and surface water monitoring protocols, and nutrient management research, will improve biosolids management and assist in protecting this state's water resources and water quality. The department shall adopt rules for biosolids management. Rules adopted by the department pursuant to this section before the 2021 regular legislative session are not subject to s. 120.541(3).

Section 12. Present subsections (7) through (10) of section 403.086, Florida Statutes, are redesignated as subsections (8) through (11), respectively, a new subsection (7) is added to that section, and paragraph (c) of subsection (1) and subsection (2) of that section are amended, to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c) Notwithstanding any other provisions of this chapter or chapter 373, facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, Indian River Lagoon beginning July 1, 2025, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in subsection (4), approved by the department. This paragraph shall not apply to facilities

which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment, a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations, and~~, in addition thereto,~~ advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform is ~~shall be~~ punishable by a civil penalty of $500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(7) All facilities for sanitary sewage under subsection (2) which control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility shall take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected waste water reaches the facility for appropriate treatment. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans that comply with department rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. The pipe assessment, repair, and replacement action plans must be reported to the department. The facility report must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and the required replacement

action plans, as well as expenditures that are dedicated to pipe assessment, repair, and replacement. The department shall adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys. Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141.

Section 13. Present subsections (4) through (10) of section 403.087, Florida Statutes, are redesignated as subsections (5) through (11), respectively, and a new subsection (4) is added to that section, to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(4) The department shall issue an operation permit for a domestic wastewater treatment facility other than a facility regulated under the National Pollutant Discharge Elimination System Program under s. 403.0885 for a term of up to 10 years if the facility is meeting the stated goals in its action plan adopted pursuant to s. 403.086(7).

Section 14. Present subsections (3) and (4) of section 403.088, Florida Statutes, are redesignated as subsections (4) and (5), respectively, a new subsection (3) is added to that section, and paragraph (c) of subsection (2) of that section is amended, to read:

403.088 Water pollution operation permits; conditions.—

(2)

(c) A permit shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;

2. Require proper operation and maintenance of any

pollution abatement facility by qualified personnel in accordance with standards established by the department;

3. Require a deliberate, proactive approach to investigating or surveying a significant percentage of the wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner. The permittee shall submit an annual report to the department which details facility revenues and expenditures in a manner prescribed by department rule. The report must detail any deviation from annual expenditures related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement required under s. 403.086(7). Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141;

4. Contain such additional conditions, requirements, and restrictions as the department deems necessary to preserve and protect the quality of the receiving waters;

5.~~4.~~ Be valid for the period of time specified therein; and

6.~~5.~~ Constitute the state National Pollutant Discharge Elimination System permit when issued pursuant to the authority in s. 403.0885.

(3) No later than March 1 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility name, operator, number of overflows, and

total quantity of discharge released. The department shall include with this report the annual report specified under s. 403.088(2)(c)3. for each utility that experienced an overflow.

Section 15. Subsection (6) of section 403.0891, Florida Statutes, is amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(6) The department and the Department of Economic Opportunity, in cooperation with local governments in the coastal zone, shall develop a model stormwater management program that could be adopted by local governments. The model program must contain model ordinances that target nutrient reduction practices and use green infrastructure. The model program shall contain dedicated funding options, including a stormwater utility fee system based upon an equitable unit cost approach. Funding options shall be designed to generate capital to retrofit existing stormwater management systems, build new treatment systems, operate facilities, and maintain and service debt.

Section 16. Paragraph (b) of subsection (3) of section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(3) Except for violations involving hazardous wastes,

asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $1,000. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of $2,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance or failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $5,000.

Section 17. Subsection (3) is added to section 403.885, Florida Statutes, to read:

403.885 Water Projects Grant Program.—

(3) The department shall give funding priority to grant proposals submitted by a domestic wastewater utility in accordance with s. 403.1835 which implement the requirements of ss. 403.086(7) or 403.088(2)(c).

Section 18. The Legislature determines and declares that this act fulfills an important state interest.

Section 19. Effective July 1, 2021, subsection (5) of section 153.54, Florida Statutes, is amended to read:

153.54 Preliminary report by county commissioners with respect to creation of proposed district.—Upon receipt of a petition duly signed by not less than 25 qualified electors who

are also freeholders residing within an area proposed to be incorporated into a water and sewer district pursuant to this law and describing in general terms the proposed boundaries of such proposed district, the board of county commissioners if it shall deem it necessary and advisable to create and establish such proposed district for the purpose of constructing, establishing or acquiring a water system or a sewer system or both in and for such district (herein called "improvements"), shall first cause a preliminary report to be made which such report together with any other relevant or pertinent matters, shall include at least the following:

(5) For the construction of a new proposed central sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors

deemed relevant by the local authority.

Such report shall be filed in the office of the clerk of the circuit court and shall be open for the inspection of any taxpayer, property owner, qualified elector or any other interested or affected person.

Section 20. Effective July 1, 2021, paragraph (c) of subsection (2) of section 153.73, Florida Statutes, is amended to read:

153.73 Assessable improvements; levy and payment of special assessments.—Any district may provide for the construction or reconstruction of assessable improvements as defined in s. 153.52, and for the levying of special assessments upon benefited property for the payment thereof, under ~~the provisions of~~ this section.

(2)

(c) For the construction of a new proposed central sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system;

consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Section 21. Effective July 1, 2021, subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Environmental Protection ~~Health~~ to serve new development.

Section 22. Effective July 1, 2021, subsection (3) of section 180.03, Florida Statutes, is amended to read:

180.03 Resolution or ordinance proposing construction or extension of utility; objections to same.—

(3) For the construction of a new proposed central sewerage

system or the extension of an existing central sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed central sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority. The results of such a study shall be included in the resolution or ordinance required under subsection (1).

Section 23. Subsections (2), (3), and (6) of section 311.105, Florida Statutes, are amended to read:

311.105 Florida Seaport Environmental Management Committee; permitting; mitigation.—

(2) Each application for a permit authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ must include:

(a) A description of maintenance dredging activities to be conducted and proposed methods of dredged-material management.

(b) A characterization of the materials to be dredged and

the materials within dredged-material management sites.

(c) A description of dredged-material management sites and plans.

(d) A description of measures to be undertaken, including environmental compliance monitoring, to minimize adverse environmental effects of maintenance dredging and dredged-material management.

(e) Such scheduling information as is required to facilitate state supplementary funding of federal maintenance dredging and dredged-material management programs consistent with beach restoration criteria of the Department of Environmental Protection.

(3) Each application for a permit authorized pursuant to s. 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~ paragraphs (2)(b)-(e) and the following:

(a) A description of dredging and dredged-material management and other related activities associated with port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(b) A discussion of environmental mitigation as is proposed for dredging and dredged-material management for port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(6) Dredged-material management activities authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~ shall be incorporated into port master plans developed pursuant to s. 163.3178(2)(k).

Section 24. Paragraph (d) of subsection (1) of section 327.46, Florida Statutes, is amended to read:

327.46 Boating-restricted areas.—

(1) Boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.

(d) Owners of private submerged lands that are adjacent to Outstanding Florida Waters, as defined in s. 403.061(28) ~~s. 403.061(27)~~, or an aquatic preserve established under ss. 258.39-258.399 may request that the commission establish boating-restricted areas solely to protect any seagrass and contiguous seagrass habitat within their private property boundaries from seagrass scarring due to propeller dredging. Owners making a request pursuant to this paragraph must demonstrate to the commission clear ownership of the submerged lands. The commission shall adopt rules to implement this paragraph, including, but not limited to, establishing an application process and criteria for meeting the requirements of this paragraph. Each approved boating-restricted area shall be established by commission rule. For marking boating-restricted zones established pursuant to this paragraph, owners of privately submerged lands shall apply to the commission for a uniform waterway marker permit in accordance with ss. 327.40 and 327.41, and shall be responsible for marking the boating-

restricted zone in accordance with the terms of the permit.

Section 25. Paragraph (d) of subsection (3) of section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(3)

(d) The South Florida Water Management District shall require the use of reclaimed water made available by the elimination of wastewater ocean outfall discharges as provided for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or groundwater when the use of reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user. Such reclaimed water may also be required in lieu of other alternative sources. In determining whether to require such reclaimed water in lieu of other alternative sources, the water management district shall consider existing infrastructure investments in place or obligated to be constructed by an executed contract or similar binding agreement as of July 1, 2011, for the development of other alternative sources.

Section 26. Subsection (9) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(9) The department and the governing boards, on or before July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~ this section, relying primarily on the existing rules of the department and the water management districts, into the rules governing the management and storage of surface waters. Such rules shall seek to achieve a statewide, coordinated and

consistent permitting approach to activities regulated under this part. Variations in permitting criteria in the rules of individual water management districts or the department shall only be provided to address differing physical or natural characteristics. Such rules adopted pursuant to this subsection shall include the special criteria adopted pursuant to s. 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules shall include a provision requiring that a notice of intent to deny or a permit denial based upon this section shall contain an explanation of the reasons for such denial and an explanation, in general terms, of what changes, if any, are necessary to address such reasons for denial. Such rules may establish exemptions and general permits, if such exemptions and general permits do not allow significant adverse impacts to occur individually or cumulatively. Such rules may require submission of proof of financial responsibility which may include the posting of a bond or other form of surety prior to the commencement of construction to provide reasonable assurance that any activity permitted pursuant to this section, including any mitigation for such permitted activity, will be completed in accordance with the terms and conditions of the permit once the construction is commenced. Until rules adopted pursuant to this subsection become effective, existing rules adopted under this part and rules adopted pursuant to the authority of ss. 403.91-403.929 shall be deemed authorized under this part and shall remain in full force and effect. Neither the department nor the governing boards are limited or prohibited from amending any such rules.

Section 27. Paragraph (b) of subsection (4) of section 373.705, Florida Statutes, is amended to read:

373.705 Water resource development; water supply development.—

(4)

(b) Water supply development projects that meet the criteria in paragraph (a) and that meet one or more of the following additional criteria shall be given first consideration for state or water management district funding assistance:

1. The project brings about replacement of existing sources in order to help implement a minimum flow or minimum water level;

2. The project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~; or

3. The project reduces or eliminates the adverse effects of competition between legal users and the natural system.

Section 28. Paragraph (f) of subsection (8) of section 373.707, Florida Statutes, is amended to read:

373.707 Alternative water supply development.—

(8)

(f) The governing boards shall determine those projects that will be selected for financial assistance. The governing boards may establish factors to determine project funding; however, significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water is a major component.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

8. Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~.

9. Whether the county or municipality, or the multiple counties or municipalities, in which the project is located has implemented a high-water recharge protection tax assessment program as provided in s. 193.625.

Section 29. Subsection (4) of section 373.709, Florida Statutes, is amended to read:

373.709 Regional water supply planning.—

(4) The South Florida Water Management District shall include in its regional water supply plan water resource and water supply development projects that promote the elimination

of wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~.

Section 30. Paragraph (k) of subsection (1) of section 376.307, Florida Statutes, is amended to read:

376.307 Water Quality Assurance Trust Fund.—

(1) The Water Quality Assurance Trust Fund is intended to serve as a broad-based fund for use in responding to incidents of contamination that pose a serious danger to the quality of groundwater and surface water resources or otherwise pose a serious danger to the public health, safety, or welfare. Moneys in this fund may be used:

(k) For funding activities described in s. 403.086(10) ~~s. 403.086(9)~~ which are authorized for implementation under the Leah Schad Memorial Ocean Outfall Program.

Section 31. Paragraph (i) of subsection (2), paragraph (b) of subsection (4), paragraph (j) of subsection (7), and paragraph (a) of subsection (9) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(11) ~~403.086(10)~~, as applicable.

(4) REMOVAL OF DESIGNATION.—

(b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:

1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(l);

2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or

any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and s. 403.086(11) ~~403.086(10)~~, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the

construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.

Section 32. Effective July 1, 2021, subsections (7) and (18) of section 381.006, Florida Statutes, are amended to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

~~(7) An onsite sewage treatment and disposal function.~~

(17)~~(18)~~ A food service inspection function for domestic violence centers that are certified by the Department of Children and Families and monitored by the Florida Coalition Against Domestic Violence under part XII of chapter 39 and group care homes as described in subsection (15) ~~(16)~~, which shall be conducted annually and be limited to the requirements in department rule applicable to community-based residential facilities with five or fewer residents.

The department may adopt rules to carry out the provisions of this section.

Section 33. Effective July 1, 2021, subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may ~~shall~~ not exceed $500 for each violation, for a violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of ~~any of the provisions of~~ chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 34. Effective July 1, 2021, subsection (1) of section 381.0064, Florida Statutes, is amended to read:

381.0064 Continuing education courses for persons installing or servicing septic tanks.—

(1) The Department of Environmental Protection ~~Health~~ shall establish a program for continuing education which meets the purposes of ss. 381.0101 and 489.554 regarding the public health and environmental effects of onsite sewage treatment and disposal systems and any other matters the department determines desirable for the safe installation and use of onsite sewage treatment and disposal systems. The department may charge a fee to cover the cost of such program.

Section 35. Effective July 1, 2021, paragraph (d) of

subsection (7), subsection (8), and paragraphs (b), (c), and (d) of subsection (9) of section 381.00651, Florida Statutes, are amended to read:

381.00651 Periodic evaluation and assessment of onsite sewage treatment and disposal systems.—

(7) The following procedures shall be used for conducting evaluations:

(d) *Assessment procedure.*—All evaluation procedures used by a qualified contractor shall be documented in the environmental health database of the Department of Environmental Protection ~~Health~~. The qualified contractor shall provide a copy of a written, signed evaluation report to the property owner upon completion of the evaluation and to the county health department within 30 days after the evaluation. The report must ~~shall~~ contain the name and license number of the company providing the report. A copy of the evaluation report shall be retained by the local county health department for a minimum of 5 years and until a subsequent inspection report is filed. The front cover of the report must identify any system failure and include a clear and conspicuous notice to the owner that the owner has a right to have any remediation of the failure performed by a qualified contractor other than the contractor performing the evaluation. The report must further identify any crack, leak, improper fit, or other defect in the tank, manhole, or lid, and any other damaged or missing component; any sewage or effluent visible on the ground or discharging to a ditch or other surface water body; any downspout, stormwater, or other source of water directed onto or toward the system; and any other maintenance need or condition of the system at the time of the evaluation

which, in the opinion of the qualified contractor, would possibly interfere with or restrict any future repair or modification to the existing system. The report shall conclude with an overall assessment of the fundamental operational condition of the system.

(8) The county health department, in coordination with the department, shall administer any evaluation program on behalf of a county, or a municipality within the county, that has adopted an evaluation program pursuant to this section. In order to administer the evaluation program, the county or municipality, in consultation with the county health department, may develop a reasonable fee schedule to be used solely to pay for the costs of administering the evaluation program. Such a fee schedule shall be identified in the ordinance that adopts the evaluation program. When arriving at a reasonable fee schedule, the estimated annual revenues to be derived from fees may not exceed reasonable estimated annual costs of the program. Fees shall be assessed to the system owner during an inspection and separately identified on the invoice of the qualified contractor. Fees shall be remitted by the qualified contractor to the county health department. The county health department's administrative responsibilities include the following:

(a) Providing a notice to the system owner at least 60 days before the system is due for an evaluation. The notice may include information on the proper maintenance of onsite sewage treatment and disposal systems.

(b) In consultation with the department ~~of Health~~, providing uniform disciplinary procedures and penalties for qualified contractors who do not comply with the requirements of

the adopted ordinance, including, but not limited to, failure to provide the evaluation report as required in this subsection to the system owner and the county health department. Only the county health department may assess penalties against system owners for failure to comply with the adopted ordinance, consistent with existing requirements of law.

(9)

(b) Upon receipt of the notice under paragraph (a), the department ~~of Environmental Protection~~ shall, within existing resources, notify the county or municipality of the potential use of, and access to, program funds under the Clean Water State Revolving Fund or s. 319 of the Clean Water Act, provide guidance in the application process to receive such moneys, and provide advice and technical assistance to the county or municipality on how to establish a low-interest revolving loan program or how to model a revolving loan program after the low-interest loan program of the Clean Water State Revolving Fund. This paragraph does not obligate the department ~~of Environmental Protection~~ to provide any county or municipality with money to fund such programs.

(c) The department ~~of Health~~ may not adopt any rule that alters ~~the provisions of~~ this section.

(d) The department ~~of Health~~ must allow county health departments and qualified contractors access to the environmental health database to track relevant information and assimilate data from assessment and evaluation reports of the overall condition of onsite sewage treatment and disposal systems. The environmental health database must be used by contractors to report each service and evaluation event and by a

county health department to notify owners of onsite sewage treatment and disposal systems when evaluations are due. Data and information must be recorded and updated as service and evaluations are conducted and reported.

Section 36. Section 403.08601, Florida Statutes, is amended to read:

403.08601 Leah Schad Memorial Ocean Outfall Program.—The Legislature declares that as funds become available the state may assist the local governments and agencies responsible for implementing the Leah Schad Memorial Ocean Outfall Program pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from other sources provided for in law, the General Appropriations Act, from gifts designated for implementation of the plan from individuals, corporations, or other entities, or federal funds appropriated by Congress for implementation of the plan, may be deposited into an account of the Water Quality Assurance Trust Fund.

Section 37. Section 403.0871, Florida Statutes, is amended to read:

403.0871 Florida Permit Fee Trust Fund.—There is established within the department a nonlapsing trust fund to be known as the "Florida Permit Fee Trust Fund." All funds received from applicants for permits pursuant to ss. 161.041, 161.053, 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter and chapter 161. In no case shall funds from the

Florida Permit Fee Trust Fund be used for salary increases without the approval of the Legislature.

Section 38. Paragraph (a) of subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with ~~the provisions of~~ this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay between January 15 and April 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental

Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with the department's emissions computation and reporting rules. The annual fee shall only apply to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit; provided, however, that:

1. The license fee factor is $25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35.

2. The amount of each regulated air pollutant in excess of 4,000 tons per year emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources,

which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3. If the department has not received the fee by March 1 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If the fee is not postmarked by April 1 of the calendar year, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and may ~~shall~~ not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section may ~~shall~~ not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 may ~~shall~~ not exceed $50 per year.

5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873. The department shall, however, require fees pursuant to s. 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

Section 39. Subsection (7) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or

(h) Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

Section 40. Paragraph (d) of subsection (3) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(3)

(d) The department may adopt rules to administer this subsection. However, the department is not required to submit such rules to the Environmental Regulation Commission for approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s. 403.087(6)(a)~~, permit fee caps for solid waste management facilities shall be prorated to reflect the extended permit term

authorized by this subsection.

Section 41. Subsections (8) and (21) of section 403.861, Florida Statutes, are amended to read:

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(8) Initiate rulemaking to increase each drinking water permit application fee authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part and adopted by rule to ensure that such fees are increased to reflect, at a minimum, any upward adjustment in the Consumer Price Index compiled by the United States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised.

(a) The department shall establish by rule the inflation index to be used for this purpose. The department shall review the drinking water permit application fees authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5 years and shall adjust the fees upward, as necessary, within the established fee caps to reflect changes in the Consumer Price Index or similar inflation indicator. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. The department shall also review the drinking water operation license fees established pursuant to paragraph (7)(b) at least once every 5 years to adopt, as necessary, the same inflationary adjustments provided for in this subsection.

(b) The minimum fee amount shall be the minimum fee

prescribed in this section, and such fee amount shall remain in effect until the effective date of fees adopted by rule by the department.

(21)(a) Upon issuance of a construction permit to construct a new public water system drinking water treatment facility to provide potable water supply using a surface water that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.

(b) For existing public water system drinking water treatment facilities that use a surface water as a treated potable water supply, which surface water classification does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.

Section 42. Effective July 1, 2021, subsection (1) of section 489.551, Florida Statutes, is amended to read:

489.551 Definitions.—As used in this part:

(1) "Department" means the Department of Environmental Protection ~~Health~~.

Section 43. Paragraph (b) of subsection (10) of section 590.02, Florida Statutes, is amended to read:

590.02 Florida Forest Service; powers, authority, and duties; liability; building structures; Withlacoochee Training Center.—

(10)

(b) The Florida Forest Service may delegate to a county, municipality, or special district its authority:

1. As delegated by the Department of Environmental Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and 403.081, to manage and enforce regulations pertaining to the burning of yard trash in accordance with s. 590.125(6).

2. To manage the open burning of land clearing debris in accordance with s. 590.125.

Section 44. The Division of Law Revision is directed to replace the phrase "adoption of the rules identified in paragraph (e)" as it is used in the amendment made by this act to s. 381.0065, Florida Statutes, with the date such rules are adopted, as provided by the Department of Environmental Protection pursuant to s. 381.0065(4)(e), Florida Statutes, as amended by this act.

Section 45. Except as otherwise expressly provided in this act this act shall take effect July 1, 2020.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Agriculture, Environment, and General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Appropriations
Environment and Natural Resources
Health Policy

SENATOR DEBBIE MAYFIELD
17th District

January 22, 2020

The Honorable Rob Bradley
Chair, Appropriations
201 The Capital
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: SB 712 – Water Quality Improvements

Dear Chair Bradley,

I am respectfully requesting Senate Bill 712, a bill relating to Water Quality Improvements, be placed on the agenda for your Appropriations Committee.

I appreciate your consideration of this bill and I look forward to working with you and Appropriations Committee staff. If there are any questions or concerns, please do not hesitate to call my office at 850-487-5017.

Thank you,

Debbie Mayfield
State Senator, District 17

Cc: Cynthia Sauls Kynoch, Alicia Weiss, John Shettle,

REPLY TO:
❒ 900 East Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025 FAX: (888) 263-3815
❒ 1801 27th Street, Vero Beach, Florida 32960 (772) 226-1970
❒ 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

412518
Amendment Barcode (if applicable)

Topic Amendment 412518 (SB 712)

Name Noah Valenstein

Job Title Secretary

Address 3900 Commonwealth Blvd
Street

Phone

Tallahassee FL 32399
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Dept. of Environmental Protection

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

(413536)
Amendment Barcode (if applicable)

PCS

Topic Water Quality

Name Laura Donaldson

Job Title

Address 109 N. Brush St., Suite 300
Street

Tampa, FL 33602
City *State* *Zip*

Phone 813-514-4700

Email ldonaldson@mansonbolves.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Nestle Waters North America

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

413518
Amendment Barcode (if applicable)

Topic _____

Name Kellie Ralston

Job Title SE Fisheries Policy Director

Address 9167 Shoal Creek
Street

Tallahassee FL 32312
City *State* *Zip*

Phone 9045533733

Email kralston@asafishing.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing American Sportfishing Association

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

712

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

2/20/20
Meeting Date

PCS 413536
Bill Number (if applicable)

412518
Amendment Barcode (if applicable)

Topic _____

Name Bre Roberts

Job Title _____

Address 4354 ne Skyline Dr.
Street

Jensen Beach FL 34957
City *State* *Zip*

Phone 801 971-1216

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Water Security Project

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

412518
Amendment Barcode (if applicable)

Topic Environmental Resource Management

Name Jon Stevercson

Job Title Public Affairs Director

Address 106 E. College Ave. *Street*

Phone (850) 222-6100

Tallahassee *City* FL *State* 32301 *Zip*

Email jstevercson@foley.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Seven Springs Water Company

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)

2/20/20
Meeting Date

SB 712
Bill Number (if applicable)

Topic SB 712 SEWAGE COLLECTION ISSUES

Amendment Barcode (if applicable)

Name TERRY RYAN

Job Title CO-FOUNDER

Address 2538 STONEGATE DR
Street

TALLAHASSEE FL 32308
City *State* *Zip*

Phone 850/321-9352

Email TERRY@THETRAKER.COM

Speaking: ☐ For ☐ Against ☑ Information

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

Representing TALLAHASSEE SEWAGE ADVOCACY GROUP

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

Topic Water Quality

Amendment Barcode (if applicable)

Name Gerry Miller

Job Title

Address 462 Groveland Hills Dr.
Street

Phone 850-656-6636

Tallahassee FL 32317
City *State* *Zip*

Email gerrymiller2@embarqmail

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Water Quality

Name Sean McGlynn

Job Title Laboratory Director

Address 568 Beverly Ct
Street
Tallahassee, FL, 32301
City *State* *Zip*

Phone 850 3701476

Email mcglynnlabs@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Wakulla Springs Alliance

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)

2-20-20
Meeting Date

SB 712
Bill Number (if applicable)

Topic Water & Preemption

Amendment Barcode (if applicable)

Name Merrillee Malwitz-Jipson

Job Title Our Santa Fe River
owner, Rum 138 - recreational tourism business
Riparian owner, Santa Fe River

Address 2020 SW County Rd 138 (*Street*)

Phone 352-222-8893

Fort White, FL 32038 (*City, State, Zip*)

Email Merrillee.art@gmail.com

Speaking: ☐ For ☒ Against ☒ Information

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

Representing See Job Title

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)

2-20-20
Meeting Date

SB 712
Bill Number (if applicable)

Topic WATER + PREEMPTION

Amendment Barcode (if applicable)

Name MICHAEL ROTH

Job Title PRES. - OUR SANTA FE RIVER

Address 846 NE 120 TRAIL
Street

BRANFORD FL 32008
City *State* *Zip*

Phone 352-316-4705

Email MIKULR01@GMAIL.COM

Speaking: ☐ For ☐ Against ☒ Information

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

Representing OUR SANTA FE RIVER

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)

Feb. 20, 2020
Meeting Date

SB 712
Bill Number (if applicable)

Topic SB 712 Water

Amendment Barcode (if applicable)

Name Jim Tatum

Job Title

Address 112 W Minnehaha
Street

Tampa FL 33604
City *State* *Zip*

Phone 3522133916

Email jim@jimtatum.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Our Santa Fe River, Inc Fort White

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

2/20/20
Meeting Date

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

SB 712
Bill Number (if applicable)

Topic CLEAN WATERWAYS

Amendment Barcode (if applicable)

Name DR. BURT ENO

Job Title PRESIDENT

Address 9220 S.W. 193 CIR.
Street

DUNNELLON FL 34432
City *State* *Zip*

Phone 352-465-2828

Email BURTENO@BELLSOUTH.NET

Speaking: ☐ For ☐ Against ☒ Information

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

Representing RAINBOW RIVER CONSERVATION, 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)

2/20/2020
Meeting Date

SB712
Bill Number (if applicable)

Topic Clean Waterways ACt

Amendment Barcode (if applicable)

Name Kelly Del Valle

Job Title Teacher

Address 3108 Rider Place
Street

Phone 4073612451

Orlando FL 32817
City *State* *Zip*

Email K.e.delvalle@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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/20/20
Meeting Date

SB 712
Bill Number (if applicable)

Topic SB 712

Amendment Barcode (if applicable)

Name Rémi Vaught

Job Title Dental tech

Address 511 SE 73rd terr
Street

Phone (352) 226-6495

Gainesville FL 32641
City *State* *Zip*

Email Sirenofthesprings@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

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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)

2/20/20
Meeting Date

SB 712
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brenda Wells

Job Title Communications

Address 7317 NW 21st Way
Street

Gainesville FL 32653
City *State* *Zip*

Phone 352-281-4255

Email brenda.wells@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

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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)

2/20/20
Meeting Date

SB 712
Bill Number (if applicable)

Topic SB 712

Amendment Barcode (if applicable)

Name Maxine Connor

Job Title

Address 9 Browallia Ct
Street

Phone 413-539-3256

Homosassa FL 34446
City *State* *Zip*

Email maxineconnor@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing with Florida Springs Council

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)

2/20/20
Meeting Date

SB 712
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Clean Waterways Act

Name Savannah Vrana

Job Title Programmer

Address 7542 Sun Tree Circle apt #126
Street

Orlando FL 32807
City *State* *Zip*

Phone (407) 334-6046

Email savannah.aez@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

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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)

1/20/2020
Meeting Date

SB 712
Bill Number (if applicable)

Topic Clean Waterways Act

Amendment Barcode (if applicable)

Name Michelle Colson

Job Title Mermaid

Address 13529 SW 3rd Place
Street

Ocala FL 34481
City *State* *Zip*

Phone 352 467 0800

Email naturallymichi@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

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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)

2/20/20
Meeting Date

SB 712
Bill Number (if applicable)

Topic Water Quality

Amendment Barcode (if applicable)

Name Ryan Smart

Job Title Executive Director

Address 209 Tallwood Rd
Street

Phone 561-358-7191

Jay Beal FL 32550
City *State* *Zip*

Email Smart4@legmail.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing Florida Springs Council

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)

2/20/20
Meeting Date

7/2
Bill Number (if applicable)

Topic CLEAN WATERWAYS

Amendment Barcode (if applicable)

Name KURT SPITZER

Job Title

Address 693 FOREST LAIR
Street

TLH 32312
City *State* *Zip*

Phone 850.228.6212

Email KURTSPITZER@KSANET.NET

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLA. STORMWATER ASSOCIATION

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

Topic WATER Quality

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Director Legislative Affairs

Address 310 W College Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 222-2557

Email adam.basford@ffb.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Farm Bureau

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)

2/20/2020
Meeting Date

712
Bill Number (if applicable)

Topic Water Quality

Amendment Barcode (if applicable)

Name Jim Spratt

Job Title

Address PO Box 10011
Street

Phone 850-224-1296

Tlh FL 32302
City *State* *Zip*

Email jim@mgmlobbystrategy.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

2/20/2020
Meeting Date

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

712
Bill Number (if applicable)

Topic Water Quality Improvements

Amendment Barcode (if applicable)

Name Jonathan Webber

Job Title Deputy Director

Address 1700 N. Monroe St #11-238
Street
Tallahassee FL 32303
City *State* *Zip*

Phone 954-593-4449

Email JWEBBER@FCVOTERS.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA CONSERVATION VOTERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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

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

2-20-2020
Meeting Date

712 (as amended)
Bill Number (if applicable)

Topic Water quality Improvements
Amendment Barcode (if applicable)

Name Andrew Rutledge

Job Title Policy Rep

Address 200 n monroe street
Street

Phone 8502221400

tallahassee — *City* | fl — *State* | 32312 — *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Realtors

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)

2/20/20
Meeting Date

SB 712
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brec Roberts

Job Title _____

Address 4354 ne Skyline Dr.
Street

Jensen Beach FL 34957
City *State* *Zip*

Phone 801 971-1216

Email brecroberts1926@gmail.com

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

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

Representing American Water Security Project

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] 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)

Feb 20 2020
Meeting Date

SB 712
Bill Number (if applicable)

Topic SB 712

Amendment Barcode (if applicable)

Name Cassidy Beller

Job Title Student

Address 311 Se 8th St
Street

Phone 352 346 1582

Gainesville FL 32601
City *State* *Zip*

Email Cass.beller@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)

2/20/2020
Meeting Date

7/2
Bill Number (if applicable)

Topic Water Quality Improvement

Amendment Barcode (if applicable)

Name Christopher Emmanuel

Job Title Policy Director

Address 136 S. Bronough
Street

Phone

TLH 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 Chamber of Commerce

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

2-20-2020
Meeting Date

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

712
Bill Number (if applicable)

Topic WATER

Amendment Barcode (if applicable)

Name Sex & Buds Toy Company Ms. Hayes

Job Title Owner Jamey Otto

Address 2108 Hwy 21
Street

Phone 904-415-3221

Email SexBuds2@gmail.com

Pensacola FL 32504
City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information

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

Representing Sex Toys Corp

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 104-2 Crest St
Street

TLH FL 32301
City *State* *Zip*

Phone 941-323-2404

Email culfenosec@aol.com

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

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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)

2/20/20
Meeting Date

SB712
Bill Number (if applicable)

Topic BMAP/Billing SB712 Home Rule Rights of Nature

Amendment Barcode (if applicable)

Name KRISTIN RUBIN

Job Title

Address 26280 NW 206 PL
Street
HIGH SPRINGS FL 32643
City *State* *Zip*

Phone 3055823800

Email rubinka2591@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Our Santa Fe River

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)

2/20/20
Meeting Date

712
Bill Number (if applicable)

Topic SB 712

Amendment Barcode (if applicable)

Name Noah Valenstein

Job Title Secretary

Address 3900 Commonwealth Blvd
Street

Phone

Tallahassee FL 32399
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Dept. of Environmental Protection

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

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 810
INTRODUCER:	Appropriations Committee; Innovation, Industry, and Technology Committee; Health Policy Committee; and Senators Simmons, Flores, and Mayfield
SUBJECT:	Tobacco and Nicotine Products
DATE:	February 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Williams	Brown	HP	**Fav/CS**
2.	Oxamendi	Imhof	IT	**Fav/CS**
3.	Betta	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 810:

- Increases the minimum age to lawfully purchase and possess tobacco products from 18 years of age to 21 years of age.
- Repeals exceptions allowing persons in the military and emancipated minors to possess or purchase tobacco products under current law.
- Prohibits smoking and vaping by any person under 21 years of age on or near school property, regardless of hours of the day.
- Limits the sale of tobacco products through a vending machine to a location that prohibits persons under 21 years of age on the premises.
- Requires age verification before a sale or delivery to a person under 30 years of age. (This complies with recently enacted federal law.)
- Requires a two-step age verification for sales and deliveries of vape and liquid nicotine products that are not conducted under the direct control or line of sight of the retail dealer.
- Prohibits the sale of flavored liquid nicotine products (other than tobacco or menthol flavors), and provides an exception for such products if the FDA issues a marketing order to permit the product to be sold.
- Adds anti-vaping education as an option for persons under 18 years of age charged with under-age violations relating to vape product purchases and possession.
- Incorporates conforming provisions.

The bill will have indeterminate insignificant fiscal impact related to the regulatory responsibilities of the Department of Business and Professional Regulation.

The effective date of the bill is October 1, 2020, contingent upon the passage of the linked fee bill CS/SB 1394 or similar legislation adopted in the same legislative session or an extension thereof.

II. Present Situation:

Regulation of Tobacco Products

The Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation (DBPR) is the state agency responsible for the regulation and enforcement of tobacco products under ch. 569, F.S.

Section 569.002, F.S., provides definitions of terms in the context of the regulation of tobacco products under ch. 569, F.S. Subsection (6) defines the term "tobacco products" to include loose tobacco leaves and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing.

Subsection (7) specifies that the term "any person under the age of 18" does not include any person under age 18 who:

- Has had his or her disability of nonage removed under ch. 743, F.S.;
- Is in the military reserve or on active duty in the Armed Forces of the United States;
- Is otherwise emancipated by a court of competent jurisdiction and released from parental care and responsibility; or
- Is acting in his or her scope of lawful employment with an entity licensed under the provisions of ch. 210, F.S., relating to taxation of cigarettes and other tobacco products, or ch. 569, F.S., relating to tobacco products.

Section 569.003, F.S., relates to retail tobacco products dealer permits, the permit application, qualifications, fees, renewals, and duplicates. Subsection (2) stipulates that permits may only be issued to persons who are 18 years of age or older or to corporations the officers of which are 18 years of age or older. The division is authorized to refuse to issue a permit to any person, firm, association, or corporation whose permit has been revoked; to any corporation with an officer who has had his or her permit revoked; or to any person who is or has been an officer of a corporation whose permit has been revoked.

The fee for an annual permit is established in rule by the division at an amount to cover the regulatory costs of the program, not to exceed $50. The proceeds of the fee are deposited into the Alcoholic Beverage and Tobacco Trust Fund within the DBPR.

Mail Order, Internet, Other Remote Sales of Tobacco Products, and Tobacco Products Permits

Section 210.095(5), F.S., provides requirements for the delivery of mail order, internet, and other remote sales of tobacco products, including age verification requirements, all of which is generally referred to as "delivery sales." It also defines 10 relevant terms.

Specific notice and shipping requirements are provided for all delivery sales, whether in-state or out-of-state. Each person who mails, ships, or otherwise delivers tobacco products in connection with an order for a delivery sale is required to:

- Include, as part of the shipping documents, in a clear and conspicuous manner, the following statement: "Tobacco Products: Florida law prohibits shipping to individuals under 18 years of age and requires the payment of all applicable taxes."
- Use a method of mailing, shipping, or delivery which obligates the delivery service to:
  - Require the signature of an adult who resides at the delivery address and obtain proof of the legal minimum purchase age of the individual accepting delivery, if the individual appears to be under 27 years of age.
  - Require proof that the individual accepting delivery is either the addressee or the adult designated by the addressee, in the form of a valid, government-issued identification card bearing a photograph of the individual who signs to accept delivery of the shipping container.
- Provide to the delivery service, if such service is used, evidence of full compliance with requirements for the collection and remittance of all taxes imposed on tobacco products by this state with respect to the delivery sale.[1]

If a person accepts a purchase order for a delivery sale and delivers the tobacco products without using a delivery service, the person must comply with all of the requirements that apply to a delivery service.[2] Before making sales or shipping orders, entities must provide specific notice to the division as to shipper and receiver, with monthly reporting.[3] There are requirements specific to purchase orders.[4]

Section 210.095(8), F.S., provides that the penalty for the following violations of the delivery sale requirements is a misdemeanor of the third degree:[5]

- A delivery sale delivers tobacco products, on behalf of a delivery service, to an individual who is under 18 years of age.
- A violation of any provision in s. 210.095, F.S., by an individual who is under 18 years of age.

Florida law does not provide a criminal penalty classification for a misdemeanor of the third degree. However, the prohibitions and penalties in s. 569.101, F.S., (prohibiting the sale,

[1] Section 210.095(5), F.S.
[2] *Id.*
[3] Section 210.095(6), F.S.
[4] Section 210.095(7), F.S.
[5] Section 775.082, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a fine not to exceed $500.

delivery, bartering, furnishing, or giving, directly or indirectly, to any person who is under 18 years of age, any tobacco product, and s. 569.11, F.S., prohibiting persons under 18 years of age from possessing, directly or indirectly, any tobacco product) apply to s. 210.095, F.S., relating to the delivery of tobacco products to persons under the age of 18.[6]

Section 210.15, F.S., relates to permits for the sale of specific tobacco products. Among the requirements for the issuance of such a permit is the provision found in paragraph (b) of subsection (2) to require that permits may be issued only to persons of good moral character, who are not less than 18 years of age. In addition, permits to corporations may be issued only to corporations whose officers are of good moral character and not less than 18 years of age.

Tobacco Products and Minors

To prevent persons under 18 years of age from purchasing or receiving tobacco products, the sale or delivery of tobacco products is prohibited, except when those products are under the direct control or line of sight of the dealer or the dealer's agent or employee. If a tobacco product is sold from a vending machine, the vending machine must have:

- An operational lock-out device which is under the control of the dealer or the dealer's agent or employee who directly regulates the sale of items through the machine by triggering the lock-out device to allow the dispensing of one tobacco product;
- A mechanism on the lock-out device to prevent the machine from functioning if the power source for the lock-out device fails or if the lock-out device is disabled; and
- A mechanism to ensure that only one tobacco product is dispensed at a time.[7]

These requirements for the sale of tobacco products do not apply to an establishment that prohibits persons under 18 years of age on premises and do not apply to the sale or delivery of cigars and pipe tobacco.[8]

Section 569.0075, F.S., prohibits the giving of sample tobacco products to persons under the age of 18.

Section 569.008, F.S., provides a process for a retail tobacco product dealer to mitigate penalties imposed against a dealer because of an employee's illegal sale of a tobacco product to a person under 18 years of age.[9] The process encourages retail tobacco product dealers to comply with responsible practices. The division may mitigate penalties if:

- The dealer is qualified as a responsible dealer having established and implemented specified practices designed to ensure that the dealer's employees comply with ch. 569, F.S., such as employee training;
- The dealer had no knowledge of that employee's violation at the time of the violation and did not direct, approve, or participate in the violation; or

[6] *See supra*, notes 10, 11, and 14 and accompanying text.
[7] Section 569.007(1), F.S.
[8] Section 569.007(2) and (3), F.S.
[9] The Florida Responsible Vendor Act in ss. 561.701 - 561.706, F.S., provides a comparable process for mitigation of penalties against vendors of alcoholic beverages.

- The sale was made through a vending machine equipped with an operational lock-out device.[10]

Section 569.101, F.S., prohibits the sale, delivery, bartering, furnishing or giving of tobacco products to persons under the age of 18. A violation of this prohibition is a second degree misdemeanor.[11] A second or subsequent violation within one year of the first violation is a first degree misdemeanor.[12]

It is a complete defense to a person charged with a violation of s. 569.101, F.S., if the buyer or recipient falsely evidenced that he or she was 18 years of age or older, a prudent person would believe the buyer or recipient to be 18 years of age or older, and the buyer or recipient presented false identification[13] upon which the person relied in good faith.[14]

Section 569.11, F.S., prohibits persons under the age of 18 years from possessing, directly or indirectly, any tobacco products:

- A first violation of this prohibition is a non-criminal violation with a penalty of 16 hours of community service or a $25 fine, and attendance at a school-approved anti-tobacco program, if locally available.
- A second or subsequent violation within 12 weeks of the first violation is punishable with a $25 fine.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.[15]

Eighty percent of all civil penalties received by a county court under s. 569.11, F.S., must be remitted to the Department of Revenue for transfer to the Department of Education for teacher training and for research and evaluation to reduce and prevent the use of tobacco products, nicotine products, or nicotine dispensing devices by children. The remaining 20 percent of civil penalties received by a county court must remain with the clerk of the county court to cover administrative costs.[16]

Section 569.12, F.S., provides enforcement authority to full-time, part-time, and auxiliary law enforcement officers for the provisions of ch. 569, F.S. The section also authorizes a county or municipality to designate certain of its employees or agents as tobacco product enforcement officers within specified guidelines. Such enforcement officers are authorized to issue a citation to a person under 18 years of age based on a reasonable cause to believe that a civil infraction

[10] Section 569.008(3), F.S.
[11] *Supra* note 5.
[12] Section 775.082, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a term of imprisonment not exceeding one year. Section 775.083, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a fine not to exceed $1,000.
[13] Identification includes carefully checking "a driver license or an identification card issued by this state or another state of the United States, a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 18 years of age or older." *See* s. 569.101(3)(c), F.S.
[14] Section 569.101(3), F.S.
[15] Section 569.11(1), F.S.
[16] Section 569.11(6), F.S.

has been committed. Similar authority is provided for correctional probation officers. Details are provided as to the required elements of the citation.

Retail tobacco product dealers (retailers) must post a clear and conspicuous sign that the sale of tobacco products is prohibited to persons under the age of 18 and that proof of age is required for purchase. The division is required to make the signs available to retailers. Retailers must also have instructional material in the form of a calendar or similar format to assist in determining the age of the person attempting to purchase a tobacco product.[17]

Section 569.19, F.S., requires the division to annually provide to the Legislature and the Governor, by December 31, a progress report on its enforcement actions specific to the: number and results of compliance visits, number of violations for failure of a retailer to hold a valid license, number of violations of selling tobacco products to persons under age 18, results of administrative hearings on these issues, and number of persons under age 18 cited for violations of underage purchases and sanctions imposed as a result of a citation.

Section 386.212, F.S., in the Florida Clean Indoor Air Act, prohibits any person under the age of 18 from smoking tobacco within 1,000 feet of a public or private elementary, middle, or secondary school between the hours of 6:00 a.m. and midnight.[18] A violation of this prohibition is punishable by a maximum noncriminal civil penalty not to exceed $25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco "alternative to suspension" program.[19]

Administrative Penalties

A retail tobacco dealer permit-holder can be disciplined under the division's penalty guidelines. For a violation of the prohibition in s. 569.06, F.S., against the sale of tobacco products to persons under 18 years of age, the guidelines provide:

- 1st occurrence -- $500 fine.
- 2nd occurrence -- $1,000 fine.
- 3rd occurrence -- $2,000 fine and a 20-day suspension of the dealer permit.
- 4th occurrence -- revocation of the dealer permit.

These penalties are based on a single violation in which the permit-holder committed or knew about the violation; or a pattern of at least three violations on different dates within a 12-week period by employees, independent contractors, agents, or patrons on the licensed premises or in the scope of employment in which the permit-holder did not participate; or violations which were occurring in an open and notorious manner on the licensed premises.[20]

[17] Section 569.14, F.S.
[18] Section 386.212(1), F.S.
[19] Section 386.212(3), F.S.
[20] Fla. Admin. Code R. 61A-2.022(1) (2019).

National Minimum Age of Sale of Tobacco Products

As part of the federal budget revisions adopted in December 2019 and signed into law on December 20, 2019, the minimum age for the sale of tobacco products is now 21 years of age.[21] The specific tobacco provisions in the budget document amended section 906(d) of the Federal Food, Drug, and Cosmetic Act to increase the federal minimum age to purchase tobacco products from 18 to 21, and to add a provision that it is unlawful for any retailer to sell a tobacco product to any person younger than age 21. The provisions also require the FDA to update its applicable tobacco regulations within specified timelines.

As part of this rule update process, the FDA is to update the relevant age verification requirements to require age verification for individuals under age 30 (as opposed to the current age verification threshold for individuals under age 27).

III. Effect of Proposed Changes:

Smoking and Vaping Prohibited Near School Property; Penalties

Section 2 amends s. 386.212, F.S., relating to smoking and vaping on or near school property and related penalties, to prohibit smoking and vaping by persons under the age of 21 during any hour of day, on public or private school property or within 1,000 feet of such property. Under current law, that prohibition applies only to persons under 18 years of age between the hours of 6:00 a.m. and midnight. Current law and the bill provide an exception to this prohibition for any person occupying a moving vehicle or within a private residence. Persons under 18 years of age who are issued a citation for violation of this provision have as part of their penalty the requirement to complete a school-approved anti-tobacco or anti-vaping "alternative to suspension" program.

Definitions of Primary Terms

Section 3 amends s. 569.002, F.S., which provides definitions specific to the regulation of tobacco products, to:

- Define the term "liquid nicotine product" as a tobacco product in liquid form composed of nicotine and other chemicals or substances which is sold or offered for sale for use with a vapor-generating electronic device.
- Redefine the term "tobacco products" in subsection (7) as including:
  - Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
  - Any component, part, or accessory of a product described above whether or not any of these contain tobacco or nicotine, including but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes.

[21] *See* the "Further Consolidated Appropriations Act, 2020," Rules Committee print 116-44, Text of the House Amendment to the Senate Amendment to H.R. 1865, December 16, 2019, beginning at page 1492 of 1773, *available at* https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-116HR1865SA-RCP116-44.PDF (last visited Jan. 25, 2020).

The term does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

- Delete the definition of the term "any person under the age of 18," which exempts persons in the military and emancipated minors from the definition, to permit such persons to possess or purchase tobacco products under current law.

Sales Restrictions

Section 1 amends s. 210.15 (1)(b), F.S., relating to permits for the sale of tobacco products, to increase the minimum age for the issuance of such permits from 18 years of age to 21 years of age.

Section 5 amends s. 569.007(1) and (2), F.S., to modify the general restrictions on the sale or delivery of tobacco products. The bill reflects the increase in the age for the purchase of tobacco products to at least 21 years of age from 18 years of age. Under the bill, sales of tobacco products from a vending machine are only permissible from a machine that is located in an establishment that prohibits persons under age 21 on the licensed premises at all times.

Subsection (1) is further amended to require a two-step age verification for sales and deliveries of vape and liquid nicotine products that are not conducted under the direct control or line of sight of the retail dealer. Step one requires verification that the purchaser is at least age 21 before accepting an order for delivery and step two requires a signature of the purchaser upon delivery.

Subsection (5) is added and prohibits the sale of flavored liquid nicotine products (other than tobacco or menthol) and provides an exception for such products if the FDA issues a marketing order to permit the product to be sold. "Flavored liquid nicotine products" is defined as a liquid nicotine product containing a natural or artificial constituent or additive that causes the liquid or its vapor to have a distinguishable taste or aroma other than tobacco or menthol, including, but not limited to, fruit, chocolate, vanilla, honey, candy, cocoa, a dessert, an alcoholic beverage, an herb or spice, or any combination thereof.

Section 6 amends s. 569.101, F.S., relating to the prohibition and penalties against the sale, delivery, barter, furnishing, or giving of tobacco products to an under-age person, to increase in the age for lawful purchase of tobacco products to 21 years of age from 18 years of age.

Section 7 amends s. 569.11, F.S., relating to the prohibition on the possession of tobacco products by minors, to reflect the increase in the minimum age from 18 years of age to 21 years of age. This section is amended to provide that persons under 18 years of age who violate related provisions under this section must complete a school-approved anti-tobacco or anti-vaping "alternative to suspension." The section is also amended to delete reference to military service in the context of age of purchase, since the bill separately removes an exception to age limits for tobacco purchase or possession by members of the active duty or reserve military.

Section 8 repeals s. 877.112, F.S., to eliminate the general restrictions on the sale or delivery of tobacco products, nicotine dispensing devises, and nicotine products to persons under the age of 18. Many of these provisions are incorporated into the provisions of ch. 569, F.S., by the linked

bill, CS/CS/SB 1394, which amends the definition for the term "tobacco products" to include vapor-generating electronic devises.

Section 9 amends s. 210.095(5)(a) and (b), F.S., relating to mail order, Internet, and remote sales of tobacco products, and age verification related for such sales. The bill revises the labeling requirement for shipped tobacco products to indicate that Florida law prohibits shipping tobacco products to individuals under 21 years of age, rather than 18 years of age. Proof of legal minimum purchase age of the individual accepting delivery is required if the individual appears to be under 30 years of age, rather than the current 27 years of age. (This latter provision is modified to ensure conformity with recent federal law provisions.[22])

The bill also amends ss. 210.095(8)(e) and (g), F.S., to provide that the penalty for a violation of the delivery sale requirements in this section, including a delivery sale to a person under the legal age to possess tobacco products, is a misdemeanor of the second degree and deletes the incorrect reference to a misdemeanor of the third degree.

Conforming Provisions

Sections 4, 10, 11, 12, 13, and 14 amend ss. 569.003(2)(a), 569.0075, 569.008, 569.12(2)(b) and (3), 569.14 and 569.19(3) and (4), F.S., respectively, to incorporate conforming provisions to reflect the increase in the minimum age for the purchase or sale of tobacco and nicotine products from 18 years of age to 21 years of age.

Effective Date

Section 15 provides an effective date of October 1, 2020, contingent upon the passage of CS/CS/SB 1394 being adopted in the same legislative session or an extension thereof and 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.

[22] *Supra* note 34.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Retail dealers of vapor-generating electronic devices, such as electronic cigarettes, will be required to obtain a retail tobacco product dealer permit. Prohibiting the sale of flavored liquid nicotine products may reduce sales, which may cause a loss of revenue to the businesses that sell those products.

C. Government Sector Impact:

The Department of Business and Professional Regulation (DBPR) may incur indeterminate expenses related to personnel costs or modification of operational priorities needed to accommodate the additional licensure of dealers of vapor-generating electronic devices, which may be offset by a regulatory fee, to be applied via a linked bill (CS/CS/SB 1394).

The DBPR indicates that the bill will require modifications to the department's regulatory data system and related devices used by inspection staff. The department indicates that these modifications can be implemented using existing resources.[23]

Prohibiting the sale of flavored liquid nicotine products may reduce sales, which may have a potential indeterminate decrease in revenues received by the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/CS/SB 1394 by Senator Simmons (Fees)

CS/CS/SB 1394 by Senator Simmons amends the definition of the term "tobacco products" in s. 569.002(7), F.S., to include vapor-generating electronic devices and products (vaping products). By defining vaping products as tobacco products, CS/CS/SB 1394 imposes a permit fee on retail dealers of vaping products because such persons are required to pay a $50 fee for a retail tobacco dealer permit.[24]

[23] Department of Business and Professional Regulation, *Senate Bill 810 Analysis* (December 9, 2019) (on file with the Senate Committee on Innovation, Industry, and Technology).
[24] *See* s. 569.003(1)(c), F.S.

Age of Tobacco Purchase in Other States

As of September 18, 2019, 18 states have raised the tobacco purchase age to 21 years of age, along with Washington, DC, and over 500 localities.[25] Some of the localities are in states that subsequently enacted statewide laws. Collectively, these laws now cover over half of the U.S. population. The strength of state and local laws, such as their enforcement and penalties, varies substantially.

Those states and the effective date of their adoption of the restrictive provisions are as follow:

State and Effective Date	State and Effective Date
Hawaii (effective 1/1/16)	Arkansas (effective 9/1/19)
California (effective 6/9/16)	Texas (effective 9/1/19)
New Jersey (effective 11/1/17)	Vermont (effective 9/1/19)
Oregon (effective 1/1/18)	Connecticut (effective 10/1/19)
Maine (effective 7/1/18)	Maryland (effective 10/1/19)
Massachusetts (effective 12/31/18)	Ohio (effective 10/17/19)
Illinois (effective 7/1/19)	New York (effective 11/13/19)
Virginia (effective 7/1/19)	Washington (effective 1/1/20)
Delaware (effective 7/16/19)	Utah (effective 7/1/21)

The following are among other jurisdictions that have raised their age for possession of tobacco products to 21 years of age: New York City, Chicago, San Francisco, San Antonio, Boston, Cincinnati, Cleveland, Columbus, and Kansas City (in Kansas and Missouri), and Washington, D.C. In Florida, Alachua County and the City of Fort Lauderdale have raised their minimum age for purchase of tobacco products to 21 years of age.

Age Restrictions on Youth Access to Electronic Cigarettes in Other States

As of September 15, 2019, all states and the District of Columbia (with the exception of Pennsylvania) have laws that restrict youth access to electronic cigarettes, or e-cigarettes. In this context, *e-cigarette* broadly refers to any product, and its component parts and accessories, that contains nicotine and/or other substances intended for use in the form of an aerosol, often referred to as vapor. In 18 states, the restriction is set at age 21. In four states, the restriction is set at age 19. In 28 states, the restriction is set at age 18. At least one state (Utah) is on a path to increase the age restriction one year at a time to age 21 over a few years. There are certain exceptions and exemptions that are applicable within any given state.[26]

[25] *See* Campaign for Tobacco-Free Kids, States and Localities that have Raised the Minimum Legal Sale Age for Tobacco Products to 21, *available at* https://www.tobaccofreekids.org/assets/content/what_we_do/state_local_issues/sales_21/states_localities_MLSA_21.pdf (last visited Jan. 25, 2020).

[26] *See* "Youth Access to E-Cigarettes, States with Laws Restricting Youth Access to E-Cigarettes, Enacted as of September 15, 2019," Public Health Law Center at Mitchell Hamline School of Law, *available at* https://www.publichealthlawcenter.org/sites/default/files/States-with-Laws-Restricting-Youth-Access-to-ECigarettes-September152019.pdf (last visited Jan. 25, 2020).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 210.095, 210.15, 386.212, 569.002, 569.003, 569.007, 569.0075, 569.008, 569.101, 569.11, 569.12, 569.14, and 569.19.

This bill repeals section 877.112 of the Florida Statutes.

IX. Additional Information:

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

CS/CS/CS by Appropriations on February 20, 2020:
The committee substitute:

- Prohibits the sale of flavored liquid nicotine products (other than tobacco or menthol), and provides an exception for such products if the FDA issues a marketing order to permit the product to be sold.
- Requires a two-step age verification for sales and deliveries of vape and liquid nicotine products that are not conducted under the direct control or line of sight of the retail dealer.
- Adds anti-vaping education as an option for persons under 18 years of age charged with under-age violations relating to vape product purchases and possession.

CS/CS by Innovation, Industry, and Technology on February 3, 2020:
The CS/CS:

- Removes from the bill the provision amending s. 569.002(6), F.S., revising the term "tobacco products" to include vapor-generating electronic devices (vaping products).
- Corrects a scrivener's error in ss. 210.095(8)(e) and (g), F.S., to provide that the penalty for a violation of the delivery sale requirements in this section, including a delivery sale to a person under the legal age to possess tobacco products, is a misdemeanor of the second degree, and delete the incorrect reference to a misdemeanor of the third degree.
- Links the bill to SB 1394 or similar legislation to make the effective date of CS/CS/SB 810 contingent upon the passage of CS/SB 1394 being adopted in the same legislative session or an extension thereof.

CS by Health Policy on January 21, 2020:
The CS revises the bill to:

- Use the term and definition for "vapor-generating electronic device" from the Florida Constitution's prohibition against indoor vaping to provide a consistency of terms and to adapt the term to include the cartridges or containers of nicotine or other substances used with a vaping device.
- Apply the prohibition against smoking and vaping within 1,000 feet of school property to persons under 21 years of age during all hours of day (instead of to persons under 18 years of age between the hours of 6 a.m. and midnight.)

- Require age verification before a sale or delivery to a person under 30 years of age. This complies with new federal law.

The CS removes from the bill provisions that:

- Exempt retailers who only sell vaping devices and products from the fee ($50) required for a retail tobacco dealer permit.
- Decriminalize, and revise the applicable penalties, for the prohibition against the sale, delivery, barter, or furnishing of tobacco products to a person under the age of 21.
- Repeal the current prohibitions against the possession of tobacco and vaping products by persons under the minimum age of lawful possession.
- Require the DBPR to conduct enhanced compliance checks of retail establishments.
- Prohibit deliveries of tobacco products to consumers.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
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	.	
	.	

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 39 - 330
and insert:

Section 2. Subsections (1) and (3) of section 386.212, Florida Statutes, are amended to read:

386.212 Smoking and vaping prohibited near school property; penalty.—

(1) It is unlawful for any person under 21 ~~18~~ years of age to smoke tobacco or vape in, on, or within 1,000 feet of the

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real property comprising a public or private elementary, middle, or secondary school ~~between the hours of 6 a.m. and midnight~~. This section does not apply to any person occupying a moving vehicle or within a private residence.

(3) Any person issued a citation pursuant to this section shall be deemed to be charged with a civil infraction punishable by a maximum civil penalty not to exceed $25, or 50 hours of community service and, for persons under 18 years of age ~~or, where available~~, successful completion of a school-approved anti-tobacco or anti-vaping "alternative to suspension" program.

Section 3. Present subsections (3) through (6) of section 569.002, Florida Statutes, are redesignated as subsections (4) through (7), respectively, a new subsection (3) is added to that section, and present subsections (6) and (7) of section 569.002, Florida Statutes, are amended to read:

569.002 Definitions.—As used in this chapter, the term:

(3) "Liquid nicotine product" means a tobacco product in liquid form composed of nicotine and other chemicals or substances which is sold or offered for sale for use with a vapor-generating electronic device.

(7)~~(6)~~ "Tobacco products" includes:

(a) Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; or

(b) Any component, part, or accessory of a product described in paragraph (a), whether or not any of these contain tobacco or nicotine, including, but not limited to, filters,

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rolling papers, blunt or hemp wraps, and pipes.

The term does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act ~~loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing~~.

~~(7) "Any person under the age of 18" does not include any person under the age of 18 who:~~

~~(a) Has had his or her disability of nonage removed under chapter 743;~~

~~(b) Is in the military reserve or on active duty in the Armed Forces of the United States;~~

~~(c) Is otherwise emancipated by a court of competent jurisdiction and released from parental care and responsibility; or~~

~~(d) Is acting in his or her scope of lawful employment with an entity licensed under the provisions of chapter 210 or this chapter.~~

Section 4. Paragraph (a) of subsection (2) of section 569.003, Florida Statutes, is amended to read:

569.003 Retail tobacco products dealer permits; application; qualifications; fees; renewal; duplicates.—

(2)(a) Permits may be issued only to persons who are 21 ~~18~~ years of age or older or to corporations the officers of which are 21 ~~18~~ years of age or older.

Section 5. Subsections (1) and (2) of section 569.007, Florida Statutes, are amended, and a new subsection (5) is added

to that section, to read:

569.007 Sale or delivery of tobacco products; restrictions.—

(1)(a) In order to prevent persons under 21 ~~18~~ years of age from purchasing or receiving tobacco products, the sale or delivery of tobacco products is prohibited, except:

1.~~(a)~~ When under the direct control or line of sight of the dealer or the dealer's agent or employee; or

2.~~(b)~~ Sales from a vending machine are prohibited under subparagraph 1. ~~the provisions of paragraph (1)(a)~~ and are only permissible from a machine that is located in an establishment that prohibits persons under 21 years of age on the licensed premises at all times.

(b) Sales of vapor-generating electronic devices and liquid nicotine products, other than as authorized under subparagraph (a)1., are permissible only if a dealer implements an age verification procedure that:

1. Before accepting an order for delivery, verifies that the purchaser is at least 21 years of age using a commercially available database, or an aggregate of databases, which is regularly used for the purpose of age and identify verification; and

2. Employs a second-step age verification to secure delivery for every order by requiring the signature of the purchaser upon delivery and verifying that the credit card or debit card used for the purchase has been issued in the purchaser's name and that the delivery address is associated with the purchaser's credit card or debit card ~~equipped with an operational lockout device which is under the control of the~~


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~~dealer or the dealer's agent or employee who directly regulates the sale of items through the machine by triggering the lockout device to allow the dispensing of one tobacco product. The lockout device must include a mechanism to prevent the machine from functioning if the power source for the lockout device fails or if the lockout device is disabled, and a mechanism to ensure that only one tobacco product is dispensed at a time.~~

~~(2) The provisions of subsection (1) shall not apply to an establishment that prohibits persons under 18 years of age on the licensed premises~~.

(5)(a) A person may not sell, deliver, barter, furnish, or give, directly or indirectly, flavored liquid nicotine products to any other person. For the purposes of this subsection, the term "flavored liquid nicotine product" means a liquid nicotine product containing a natural or artificial constituent or additive that causes the liquid or its vapor to have a distinguishable taste or aroma other than tobacco or menthol, including, but not limited to, fruit, chocolate, vanilla, honey, candy, cocoa, a dessert, an alcoholic beverage, an herb or spice, or any combination thereof.

(b) This subsection does not apply to the sale, shipment, or transport of any product that receives a marketing order issued by the United States Food and Drug Administration under 21 U.S.C. s. 387j.

Section 6. Section 569.101, Florida Statutes, is amended to read:

569.101 Selling, delivering, bartering, furnishing, or giving tobacco products to persons under 21 ~~18~~ years of age; criminal penalties; defense.—

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(1) It is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, to any person who is under 21 ~~18~~ years of age, any tobacco product.

(2) Any person who violates subsection (1) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, any person who violates subsection (1) for a second or subsequent time within 1 year of the first violation, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A person charged with a violation of subsection (1) has a complete defense if, at the time the tobacco product was sold, delivered, bartered, furnished, or given:

(a) The buyer or recipient falsely evidenced that she or he was 21 ~~18~~ years of age or older;

(b) The appearance of the buyer or recipient was such that a prudent person would believe the buyer or recipient to be 21 ~~18~~ years of age or older; and

(c) Such person carefully checked a driver license or an identification card issued by this state or another state of the United States, a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 21 ~~18~~ years of age or older.

(4) A person must verify by means of identification specified in paragraph (3)(c) that a person purchasing a tobacco product is not under 21 years of age. Such verification is not required for any person over the age of 29.

Section 7. Section 569.11, Florida Statutes, is amended to

read:

569.11 Possession, misrepresenting age ~~or military service~~ to purchase, and purchase of tobacco products by persons under 21 ~~18~~ years of age prohibited; penalties; jurisdiction; disposition of fines.—

(1) It is unlawful for any person under 21 ~~18~~ years of age to knowingly possess any tobacco product. Any person under 21 ~~18~~ years of age who violates this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a $25 fine. In addition, if the person is under 18 years of age, the person must attend a school-approved anti-vaping or anti-tobacco program~~, if locally available~~; or

(b) For a second or subsequent violation within 12 weeks after the first violation, a $25 fine.

Any second or subsequent violation not within the 12-week period after the first violation is punishable as provided for a first violation.

(2) It is unlawful for any person under 21 ~~18~~ years of age to misrepresent his or her age ~~or military service~~ for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product, or to purchase, or attempt to purchase, any tobacco product from a person or a vending machine. Any person under 21 ~~18~~ years of age who violates this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

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(a) For a first violation, 16 hours of community service or, instead of community service, a $25 fine and, in addition, if the person is under 18 years of age, the person must attend a school-approved anti-vaping or anti-tobacco program~~, if available~~; or

(b) For a second or subsequent violation within 12 weeks after the first violation, a $25 fine.

Any second or subsequent violation not within the 12-week period after the first violation is punishable as provided for a first violation.

(3) Any person under 21 ~~18~~ years of age cited for committing a noncriminal violation under this section must sign and accept a civil citation indicating a promise to appear before the county court or comply with the requirement for paying the fine and, if the person is under 18 years of age, must attend a school-approved anti-vaping or anti-tobacco program~~, if locally available~~. If a fine is assessed for a violation of this section, the fine must be paid within 30 days after the date of the citation or, if a court appearance is mandatory, within 30 days after the date of the hearing.

(4) A person charged with a noncriminal violation under this section must appear before the county court or comply with the requirement for paying the fine. The court, after a hearing, shall make a determination as to whether the noncriminal violation was committed. If the court finds the violation was committed, it shall impose an appropriate penalty as specified in subsection (1) or subsection (2). A person who participates in community service shall be considered an employee of the

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state for the purpose of chapter 440, for the duration of such service.

(5)(a) If a person under 21 ~~18~~ years of age is found by the court to have committed a noncriminal violation under this section and that person has failed to complete community service, pay the fine as required by paragraph (1)(a) or paragraph (2)(a), or, if the person is under 18 years of age, attend a school-approved anti-vaping or anti-tobacco program~~, if locally available~~, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver license or driving privilege of that person for a period of 30 consecutive days.

(b) If a person under 21 ~~18~~ years of age is found by the court to have committed a noncriminal violation under this section and that person has failed to pay the applicable fine as required by paragraph (1)(b) or paragraph (2)(b), the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver license or driving privilege of that person for a period of 45 consecutive days.

(6) Eighty percent of all civil penalties received by a county court pursuant to this section shall be remitted by the clerk of the court to the Department of Revenue for transfer to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products by children. The remaining 20 percent of civil penalties received by a county court pursuant to this section shall remain with the clerk of the county court to cover administrative costs.

Section 8. Section 877.112, Florida Statutes, is repealed.


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Section 9. Paragraphs (a) and (b) of subsection (5) and paragraphs (e) and (g) of subsection (8) of section 210.095, Florida Statutes, are amended to read:

210.095 Mail order, Internet, and remote sales of tobacco products; age verification.—

(5) Each person who mails, ships, or otherwise delivers tobacco products in connection with an order for a delivery sale must:

(a) Include as part of the shipping documents, in a clear and conspicuous manner, the following statement: "Tobacco Products: Florida law prohibits shipping to individuals under 21 ~~18~~ years of age and requires the payment of all applicable taxes."

(b) Use a method of mailing, shipping, or delivery which obligates the delivery service to require:

1. The individual submitting the order for the delivery sale or another adult who resides at the individual's address to sign his or her name to accept delivery of the shipping container. Proof of the legal minimum purchase age of the individual accepting delivery is required only if the individual appears to be under 30 ~~27~~ years of age.

2. Proof that the individual is either the addressee or the adult designated by the addressee, in the form of a valid, government-issued identification card bearing a photograph of the individual who signs to accept delivery of the shipping container.

If the person accepting a purchase order for a delivery sale delivers the tobacco products without using a delivery service,


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the person must comply with all of the requirements of this section which apply to a delivery service. Any failure to comply with a requirement of this section constitutes a violation thereof.

(8)

(e) A person who, in connection with a delivery sale, delivers tobacco products on behalf of a delivery service to an individual who is not an adult commits a misdemeanor of the second ~~third~~ degree, punishable as provided in s. 775.082 or s. 775.083.

(g) An individual who is not an adult and who knowingly violates any provision of this section commits a misdemeanor of the second ~~third~~ degree, punishable as provided in s. 775.082 or s. 775.083.

Section 10. Section 569.0075, Florida Statutes, is amended to read:

569.0075 Gift of sample tobacco products prohibited.—The gift of sample tobacco products to any person under the age of 21 ~~18~~ by an entity licensed or permitted under the provisions of chapter 210 or this chapter, or by an employee of such entity, is prohibited and is punishable as provided in s. 569.101.

Section 11. Subsection (1), paragraphs (b) and (c) of subsection (2), and subsection (3) of section 569.008, Florida Statutes, are amended to read:

569.008 Responsible retail tobacco products dealers; qualifications; mitigation of disciplinary penalties; diligent management and supervision; presumption.—

(1) The Legislature intends to prevent the sale of tobacco products to persons under 21 ~~18~~ years of age and to encourage


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retail tobacco products dealers to comply with responsible practices in accordance with this section.

(2) To qualify as a responsible retail tobacco products dealer, the dealer must establish and implement procedures designed to ensure that the dealer's employees comply with the provisions of this chapter. The dealer must provide a training program for the dealer's employees which addresses the use and sale of tobacco products and which includes at least the following topics:

(b) Methods of recognizing and handling customers under 21 ~~18~~ years of age.

(c) Procedures for proper examination of identification cards in order to verify that customers are not under 21 ~~18~~ years of age.

(3) In determining penalties under s. 569.006, the division may mitigate penalties imposed against a dealer because of an employee's illegal sale of a tobacco product to a person under 21 ~~18~~ years of age if the following conditions are met:

(a) The dealer is qualified as a responsible dealer under this section.

(b) The dealer provided the training program required under subsection (2) to that employee before the illegal sale occurred.

(c) The dealer had no knowledge of that employee's violation at the time of the violation and did not direct, approve, or participate in the violation.

(d) If the sale was made through a vending machine, the machine was equipped with an operational lock-out device.

Section 12. Paragraph (b) of subsection (2), subsection

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(3), and paragraph (g) of subsection (4) of section 569.12, Florida Statutes, are amended to read:

569.12 Jurisdiction; tobacco product enforcement officers or agents; enforcement.—

(2)

(b) A tobacco product enforcement officer is authorized to issue a citation to a person under the age of 21 ~~18~~ when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of s. 386.212 or s. 569.11.

(3) A correctional probation officer as defined in s. 943.10(3) is authorized to issue a citation to a person under the age of 21 ~~18~~ when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of s. 569.11.

(4) A citation issued to any person violating the provisions of s. 569.11 shall be in a form prescribed by the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation and shall contain:

(g) The procedure for the person to follow in order to contest the citation, perform the required community service, attend the required anti-vaping or anti-tobacco program, or to pay the civil penalty.

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

And the title is amended as follows:

Delete lines 7 - 21

and insert:

property; revising civil penalties; amending s.

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569.002, F.S.; defining the term "liquid nicotine product"; revising the definition of the term "tobacco products"; deleting the term "any person under the age of 18"; amending s. 569.003, F.S.; revising the age limits for retail tobacco products dealer permits; amending s. 569.007, F.S.; revising prohibitions on the sale of tobacco products from vending machines; providing requirements for the delivery of vapor-generating electronic devices and liquid nicotine products; conforming provisions to federal law; prohibiting a person from selling, delivering, bartering, furnishing, or giving flavored liquid nicotine products to any other person; defining the term "flavored liquid nicotine product"; providing applicability; amending s. 569.101, F.S.; requiring that the age of persons purchasing tobacco products be verified under certain circumstances; amending s. 569.11, F.S.; revising civil penalties; conforming provisions to federal law; conforming provisions to changes made by the act; repealing s. 877.112, F.S., relating to nicotine products and nicotine dispensing devices; amending s. 210.095, F.S.; conforming provisions to federal law; making technical changes; amending ss. 569.0075, 569.008, 569.12, 569.14, and 569.19, F.S.; conforming

By the Committees on Innovation, Industry, and Technology; and Health Policy; and Senators Simmons and Flores

A bill to be entitled

An act relating to tobacco and nicotine products; amending s. 210.15, F.S.; revising the age limits for permits relating to cigarettes; amending s. 386.212, F.S.; revising age and time restrictions relating to the prohibition of smoking and vaping near school property; amending s. 569.002, F.S.; revising the definition of the term "tobacco products"; deleting the term "any person under the age of 18"; amending s. 569.003, F.S.; revising the age limits for retail tobacco products dealer permits; amending s. 569.007, F.S.; revising prohibitions on the sale of tobacco products from vending machines; conforming provisions to federal law; amending s. 569.101, F.S.; requiring that the age of persons purchasing tobacco products be verified under certain circumstances; repealing s. 877.112, F.S., relating to nicotine products and nicotine dispensing devices; amending s. 210.095, F.S.; conforming provisions to federal law; making technical changes; amending ss. 569.0075, 569.008, 569.11, 569.12, 569.14, and 569.19, F.S.; conforming provisions to federal law; conforming provisions to changes made by the act; providing a contingent effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 210.15, Florida Statutes, is amended to read:

210.15 Permits.—

(1)

(b) Permits shall be issued only to persons of good moral character, who are not less than 21 ~~18~~ years of age. Permits to corporations shall be issued only to corporations whose officers are of good moral character and not less than 21 ~~18~~ years of age. There shall be no exemptions from the permit fees herein provided to any persons, association of persons, or corporation, any law to the contrary notwithstanding.

Section 2. Subsection (1) of section 386.212, Florida Statutes, is amended to read:

386.212 Smoking and vaping prohibited near school property; penalty.—

(1) It is unlawful for any person under 21 ~~18~~ years of age to smoke tobacco or vape in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school ~~between the hours of 6 a.m. and midnight~~. This section does not apply to any person occupying a moving vehicle or within a private residence.

Section 3. Subsections (6) and (7) of section 569.002, Florida Statutes, are amended to read:

569.002 Definitions.—As used in this chapter, the term:

(6) "Tobacco products" includes:

(a) Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; or

(b) Any component, part, or accessory of a product

described in paragraph (a), whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes.

The term does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act ~~loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing~~.

~~(7) "Any person under the age of 18" does not include any person under the age of 18 who:~~

~~(a) Has had his or her disability of nonage removed under chapter 743;~~

~~(b) Is in the military reserve or on active duty in the Armed Forces of the United States;~~

~~(c) Is otherwise emancipated by a court of competent jurisdiction and released from parental care and responsibility; or~~

~~(d) Is acting in his or her scope of lawful employment with an entity licensed under the provisions of chapter 210 or this chapter.~~

Section 4. Paragraph (a) of subsection (2) of section 569.003, Florida Statutes, is amended to read:

569.003 Retail tobacco products dealer permits; application; qualifications; fees; renewal; duplicates.—

(2)(a) Permits may be issued only to persons who are 21 ~~18~~ years of age or older or to corporations the officers of which are 21 ~~18~~ years of age or older.

Section 5. Subsections (1) and (2) of section 569.007, Florida Statutes, are amended to read:

569.007 Sale or delivery of tobacco products; restrictions.—

(1) In order to prevent persons under 21 ~~18~~ years of age from purchasing or receiving tobacco products, the sale or delivery of tobacco products is prohibited, except:

(a) When under the direct control or line of sight of the dealer or the dealer's agent or employee; or

(b) Sales from a vending machine are prohibited under ~~the provisions of~~ paragraph ~~(1)~~(a) and are only permissible from a machine that is located in an establishment that prohibits persons under 21 years of age on the licensed premises at all times ~~equipped with an operational lockout device which is under the control of the dealer or the dealer's agent or employee who directly regulates the sale of items through the machine by triggering the lockout device to allow the dispensing of one tobacco product. The lockout device must include a mechanism to prevent the machine from functioning if the power source for the lockout device fails or if the lockout device is disabled, and a mechanism to ensure that only one tobacco product is dispensed at a time.~~

~~(2) The provisions of subsection (1) shall not apply to an establishment that prohibits persons under 18 years of age on the licensed premises~~.

Section 6. Section 569.101, Florida Statutes, is amended to read:

569.101 Selling, delivering, bartering, furnishing, or giving tobacco products to persons under 21 ~~18~~ years of age;

criminal penalties; defense.—

(1) It is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, to any person who is under 21 ~~18~~ years of age, any tobacco product.

(2) Any person who violates subsection (1) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, any person who violates subsection (1) for a second or subsequent time within 1 year of the first violation, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A person charged with a violation of subsection (1) has a complete defense if, at the time the tobacco product was sold, delivered, bartered, furnished, or given:

(a) The buyer or recipient falsely evidenced that she or he was 21 ~~18~~ years of age or older;

(b) The appearance of the buyer or recipient was such that a prudent person would believe the buyer or recipient to be 21 ~~18~~ years of age or older; and

(c) Such person carefully checked a driver license or an identification card issued by this state or another state of the United States, a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 21 ~~18~~ years of age or older.

(4) A person must verify by means of identification specified in paragraph (3)(c) that a person purchasing a tobacco product is not under 21 years of age. Such verification is not required for any person over the age of 29.

Section 7. Section 877.112, Florida Statutes, is repealed.

Section 8. Paragraphs (a) and (b) of subsection (5) and paragraphs (e) and (g) of subsection (8) of section 210.095, Florida Statutes, are amended to read:

210.095 Mail order, Internet, and remote sales of tobacco products; age verification.—

(5) Each person who mails, ships, or otherwise delivers tobacco products in connection with an order for a delivery sale must:

(a) Include as part of the shipping documents, in a clear and conspicuous manner, the following statement: "Tobacco Products: Florida law prohibits shipping to individuals under 21 ~~18~~ years of age and requires the payment of all applicable taxes."

(b) Use a method of mailing, shipping, or delivery which obligates the delivery service to require:

1. The individual submitting the order for the delivery sale or another adult who resides at the individual's address to sign his or her name to accept delivery of the shipping container. Proof of the legal minimum purchase age of the individual accepting delivery is required only if the individual appears to be under 30 ~~27~~ years of age.

2. Proof that the individual is either the addressee or the adult designated by the addressee, in the form of a valid, government-issued identification card bearing a photograph of the individual who signs to accept delivery of the shipping container.

If the person accepting a purchase order for a delivery sale

delivers the tobacco products without using a delivery service, the person must comply with all of the requirements of this section which apply to a delivery service. Any failure to comply with a requirement of this section constitutes a violation thereof.

(8)

(e) A person who, in connection with a delivery sale, delivers tobacco products on behalf of a delivery service to an individual who is not an adult commits a misdemeanor of the second ~~third~~ degree, punishable as provided in s. 775.082 or s. 775.083.

(g) An individual who is not an adult and who knowingly violates any provision of this section commits a misdemeanor of the second ~~third~~ degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Section 569.0075, Florida Statutes, is amended to read:

569.0075 Gift of sample tobacco products prohibited.—The gift of sample tobacco products to any person under the age of 21 ~~18~~ by an entity licensed or permitted under the provisions of chapter 210 or this chapter, or by an employee of such entity, is prohibited and is punishable as provided in s. 569.101.

Section 10. Subsection (1), paragraphs (b) and (c) of subsection (2), and subsection (3) of section 569.008, Florida Statutes, are amended to read:

569.008 Responsible retail tobacco products dealers; qualifications; mitigation of disciplinary penalties; diligent management and supervision; presumption.—

(1) The Legislature intends to prevent the sale of tobacco

products to persons under 21 ~~18~~ years of age and to encourage retail tobacco products dealers to comply with responsible practices in accordance with this section.

(2) To qualify as a responsible retail tobacco products dealer, the dealer must establish and implement procedures designed to ensure that the dealer's employees comply with the provisions of this chapter. The dealer must provide a training program for the dealer's employees which addresses the use and sale of tobacco products and which includes at least the following topics:

(b) Methods of recognizing and handling customers under 21 ~~18~~ years of age.

(c) Procedures for proper examination of identification cards in order to verify that customers are not under 21 ~~18~~ years of age.

(3) In determining penalties under s. 569.006, the division may mitigate penalties imposed against a dealer because of an employee's illegal sale of a tobacco product to a person under 21 ~~18~~ years of age if the following conditions are met:

(a) The dealer is qualified as a responsible dealer under this section.

(b) The dealer provided the training program required under subsection (2) to that employee before the illegal sale occurred.

(c) The dealer had no knowledge of that employee's violation at the time of the violation and did not direct, approve, or participate in the violation.

(d) If the sale was made through a vending machine, the machine was equipped with an operational lock-out device.

Section 11. Section 569.11, Florida Statutes, is amended to read:

569.11 Possession, misrepresenting age ~~or military service~~ to purchase, and purchase of tobacco products by persons under 21 ~~18~~ years of age prohibited; penalties; jurisdiction; disposition of fines.—

(1) It is unlawful for any person under 21 ~~18~~ years of age to knowingly possess any tobacco product. Any person under 21 ~~18~~ years of age who violates this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a $25 fine. In addition, the person must attend a school-approved anti-tobacco program, if locally available; or

(b) For a second or subsequent violation within 12 weeks after the first violation, a $25 fine.

Any second or subsequent violation not within the 12-week period after the first violation is punishable as provided for a first violation.

(2) It is unlawful for any person under 21 ~~18~~ years of age to misrepresent his or her age ~~or military service~~ for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product, or to purchase, or attempt to purchase, any tobacco product from a person or a vending machine. Any person under 21 ~~18~~ years of age who violates this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a $25 fine and, in addition, the person must attend a school-approved anti-tobacco program, if available; or

(b) For a second or subsequent violation within 12 weeks after the first violation, a $25 fine.

Any second or subsequent violation not within the 12-week period after the first violation is punishable as provided for a first violation.

(3) Any person under 21 ~~18~~ years of age cited for committing a noncriminal violation under this section must sign and accept a civil citation indicating a promise to appear before the county court or comply with the requirement for paying the fine and must attend a school-approved anti-tobacco program, if locally available. If a fine is assessed for a violation of this section, the fine must be paid within 30 days after the date of the citation or, if a court appearance is mandatory, within 30 days after the date of the hearing.

(4) A person charged with a noncriminal violation under this section must appear before the county court or comply with the requirement for paying the fine. The court, after a hearing, shall make a determination as to whether the noncriminal violation was committed. If the court finds the violation was committed, it shall impose an appropriate penalty as specified in subsection (1) or subsection (2). A person who participates in community service shall be considered an employee of the state for the purpose of chapter 440, for the duration of such service.

(5)(a) If a person under 21 ~~18~~ years of age is found by the court to have committed a noncriminal violation under this section and that person has failed to complete community service, pay the fine as required by paragraph (1)(a) or paragraph (2)(a), or attend a school-approved anti-tobacco program, if locally available, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver license or driving privilege of that person for a period of 30 consecutive days.

(b) If a person under 21 ~~18~~ years of age is found by the court to have committed a noncriminal violation under this section and that person has failed to pay the applicable fine as required by paragraph (1)(b) or paragraph (2)(b), the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver license or driving privilege of that person for a period of 45 consecutive days.

(6) Eighty percent of all civil penalties received by a county court pursuant to this section shall be remitted by the clerk of the court to the Department of Revenue for transfer to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products by children. The remaining 20 percent of civil penalties received by a county court pursuant to this section shall remain with the clerk of the county court to cover administrative costs.

Section 12. Paragraph (b) of subsection (2) and subsection (3) of section 569.12, Florida Statutes, are amended to read:

569.12 Jurisdiction; tobacco product enforcement officers or agents; enforcement.—

(2)

(b) A tobacco product enforcement officer is authorized to issue a citation to a person under the age of 21 ~~18~~ when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of s. 386.212 or s. 569.11.

(3) A correctional probation officer as defined in s. 943.10(3) is authorized to issue a citation to a person under the age of 21 ~~18~~ when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of s. 569.11.

Section 13. Section 569.14, Florida Statutes, is amended to read:

569.14 Posting of a sign stating that the sale of tobacco products to persons under 21 ~~18~~ years of age is unlawful; enforcement; penalty.—

(1) A dealer that sells tobacco products shall post a clear and conspicuous sign in each place of business where such products are sold which substantially states the following:

THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

(2) ~~A dealer that sells tobacco products and nicotine products or nicotine dispensing devices, as defined in s. 877.112, may use a sign that substantially states the following:~~

~~THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR~~

~~NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.~~

~~A dealer that uses a sign as described in this subsection meets the signage requirements of subsection (1) and s. 877.112.~~

~~(3)~~ The division shall make available to dealers of tobacco products signs that meet the requirements of subsection (1) ~~or subsection (2)~~.

(3)~~(4)~~ Any dealer that sells tobacco products shall provide at the checkout counter in a location clearly visible to the dealer or the dealer's agent or employee instructional material in a calendar format or similar format to assist in determining whether a person is of legal age to purchase tobacco products. This point of sale material must contain substantially the following language:

IF YOU WERE NOT BORN BEFORE THIS DATE
(insert date and applicable year)
YOU CANNOT BUY TOBACCO PRODUCTS.

Upon approval by the division, in lieu of a calendar a dealer may use card readers, scanners, or other electronic or automated systems that can verify whether a person is of legal age to purchase tobacco products. Failure to comply with the provisions contained in this subsection shall result in imposition of administrative penalties as provided in s. 569.006.

(4)~~(5)~~ The division, through its agents and inspectors, shall enforce this section.

(5)~~(6)~~ Any person who fails to comply with subsection (1) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 14. Subsections (3) and (4) of section 569.19, Florida Statutes, are amended to read:

569.19 Annual report.—The division shall report annually with written findings to the Legislature and the Governor by December 31, on the progress of implementing the enforcement provisions of this chapter. This must include, but is not limited to:

(3) The number of violations for selling tobacco products to persons under age 21 ~~18~~, and the results of administrative hearings on the above and related issues.

(4) The number of persons under age 21 ~~18~~ cited for violations of s. 569.11 and sanctions imposed as a result of citation.

Section 15. This act shall take effect October 1, 2020, if SB 1394 or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 5, 2020

I respectfully request that **Senate Bill 810**, relating to Tobacco and Nicotine Products, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 9

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/20
Meeting Date

SB 810
Bill Number (if applicable)

Topic SB 810

Amendment Barcode (if applicable)

Name Robert Lovett

Job Title President - Florida Smoke Free Association

Address 407 Park Blvd.
Street

Phone

Oldsmar FL 34677
City *State* *Zip*

Email robert@flsmokefree.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Smoke Free 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)

2/20/20
Meeting Date

810
Bill Number (if applicable)

Topic Tobacco

Amendment Barcode (if applicable)

Name Doug Bell

Job Title

Address 119 S Monroe St.
Street

TLH
City *State* *Zip*

Phone 205 9000

Email doug.bell@mhdfirm.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chapter of the American Academy of Pediatrics

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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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)

2/20/20
Meeting Date

810
Bill Number (if applicable)

Topic Tobacco and Nicotine Products

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *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 (10/14/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/2020
Meeting Date

810
Bill Number (if applicable)

Topic Tobacco and Nicotine Products

Amendment Barcode (if applicable)

Name Daniel Olson

Job Title Director, Government Relations

Address 400 S. Monroe
Street

Phone

Tallahassee FL 32399
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Office of the Attorney General

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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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)

2/20/20
Meeting Date

SB 810
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 810

Name Kino Becton

Job Title Regional Government Affairs

Address 150 Forsythia Ln
Street
Tega Cay SC 29708
City *State* *Zip*

Phone 636-445-2522

Email becton@vaportech.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing VTA

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)

2/20/2020
Meeting Date

810
Bill Number (if applicable)

811930
Amendment Barcode (if applicable)

Topic Tobacco and Nicotine Products

Name Daniel Olson

Job Title Director, Government Relations

Address 400 S. Monroe
Street

Phone

Tallahassee FL 32399
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Office of the Attorney General

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/26
Meeting Date

SB 810
Bill Number (if applicable)

811930
Amendment Barcode (if applicable)

Topic FI SB 810 Am. 811930

Name Kino Becton

Job Title Regional Government Affairs

Address 150 Forsyth Lake Lane
Street

Tega Cay SC 29708
City *State* *Zip*

Phone 636-445-2522

Email becton@vaportechnology.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Vapor Technology 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)

2/20/20
Meeting Date

SB 810
Bill Number (if applicable)

811930
Amendment Barcode (if applicable)

Topic Amendment to 810 - 811930

Name Robert Lovett

Job Title President - Florida Smoke Free Association

Address 407 Park Blvd.
Street

Phone

Oldsmar FL 34677
City *State* *Zip*

Email robert@flsmokefree.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Smoke Free 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)

2-20-23
Meeting Date

810
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr
Street

Largo FL 33773
City *State* *Zip*

Phone _____

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving families Smoking

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 952
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Perry
SUBJECT:	Senior Management Service Class
DATE:	February 19, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	**Fav/CS**
2.	Cellon	Jones	CJ	**Favorable**
3.	Dale	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 952 makes certain managerial employees of the criminal conflict and civil regional counsel offices members of the Senior Management Service Class (SMSC) (rather than the Regular Class) of the Florida Retirement System (FRS). For each employee participating in the pension plan of the FRS, this shift means the employee earns 2.0 percent service credit for each year of service rather than 1.6 percent service credit. For an employee participating in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 7.67 percent of salary rather than 6.3 percent of salary.

Any employee shifted from the Regular Class to the SMSC is permitted to upgrade retirement credit for service in the same position. The upgraded service credit may not be purchased by the member's employer.

The bill increases the personnel costs incurred by the five offices of the criminal conflict and civil regional counsel by an estimated $288,234 annually for the positions enumerated in the bill for membership in the SMSC.[1]

The bill takes effect July 1, 2020.

[1] The Offices of Criminal Conflict and Civil Regional Counsel estimated cost analysis on file with Senate Appropriations Subcommittee on Criminal and Civil Justice.

II. Present Situation:

Criminal Conflict and Civil Regional Counsel

In 2007, the Legislature created s. 27.511, F.S., to establish five offices of criminal conflict and civil regional counsel. When an Office of the Public Defender determines it has a conflict in representing an indigent defendant, the office of criminal conflict and civil regional counsel will be appointed to represent the defendant. The office of criminal conflict and civil regional counsel has primary responsibility for representing persons entitled to court-appointed counsel under the Federal or State Constitution or as authorized by law in civil proceedings, such as proceedings to terminate parental rights.[2]

The table below shows the number of full-time equivalent positions and the amount of salary rate authorized for each of the five regional offices.

Regional Office	FTE Positions	Salary Rate
First	122.00	6,822,226
Second	107.00	6,310,604
Third	66.75	4,314,054
Fourth	114.00	6,257,822
Fifth	92.00	4,621,667
Total	501.75	28,326,373

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.[3] The FRS is a contributory system, with active members contributing three percent of their salaries.[4]

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

- The Regular Class[5] consists of 554,631 active members and 7,629 in renewed membership;
- The Special Risk Class[6] includes 74,274 active members and 1,112 in renewed membership;

[2] Section 27.511(5) and (6), F.S.
[3] Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 35. Available online at: https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf (last visited February 13, 2020).
[4] Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 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.
[5] The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.
[6] 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.

- The Special Risk Administrative Support Class[7] has 100 active members and 1 in renewed membership;
- The Elected Officers' Class[8] has 2,088 active members and 112 in renewed membership; and
- The Senior Management Service Class[9] has 7,767 active members and 214 in renewed membership.[10]

Members of the FRS have two primary plan options available for participation:
- The defined benefit plan, also known as the Pension Plan; and
- The defined contribution plan, also known as the Investment Plan.

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.[11] Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.[12] For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.[13] Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.[14] For most current members of the pension plan (including members in the Regular Class and the Senior Management Service Class), normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.[15] Members initially enrolled in the pension plan on or after July 1, 2011, have longer service requirements. For members initially enrolled after that date, a member in the Regular Class or the Senior Management Service Class (SMSC) must complete 33 years of service or attain age 65.[16]

The Regular Class and the SMSC share the same normal retirement dates, average final compensation calculation, and disability/survivor benefits. However, the Regular Class service credit provides a 1.6 percent accrual value for each year of creditable service while the SMSC earns a 2.0 percent accrual value each year.

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[7] 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.
[8] 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.
[9] 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.
[10] All figures are from Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 161.
[11] Section 121.025, F.S.
[12] Section 121.021(45)(a), F.S.
[13] Section 121.021(45)(b), F.S.
[14] Section 121.091, F.S.
[15] Section 121.021(29)(a)1., F.S.
[16] Sections 121.021(29)(a)2. and (b)2., F.S.

Section 121.055(1)(j), F.S., authorizes a member of the SMSC to upgrade service credit in the same position from Regular Class accrual value to the SMSC accrual value. Generally, the service credit may be purchased by the employer on behalf of the member.

Investment Plan

In 2000, the Public Employee Optional Retirement Program (investment plan) was created as a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan. The State Board of Administration (SBA) is primarily responsible for administering the investment plan.[17] The Board of Trustees of the SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.[18]

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.[19] With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.[20] Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.[21] The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.[22] An FRS member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.[23]

[17] Section 121.4501(8), F.S.
[18] FLA CONST. art. IV, s. 4.
[19] Section 121.4501(6)(a), F.S.
[20] If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.
[21] Section 121.591, F.S.
[22] *See* s. 121.4501(16), F.S.
[23] Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

The table below shows the allocation of contributions made into the FRS for members of the investment plan participating in the Regular Class and SMSC. The contributions are based on a percentage of the member's gross compensation for the month.

Allocation of Contributions	Regular Class	Senior Management Service Class
Investment Account	6.30%	7.67%
Disability	0.25%	0.26%
In line of duty death	0.05%	0.05%
Administrative Assessments	0.06%	0.06%
Total	6.66%	8.04%

III. Effect of Proposed Changes:

Section 1 amends s. 121.053, F.S., to make certain employees of the criminal conflict and civil regional counsel offices members of the SMSC (rather than the Regular Class) of the FRS. For each employee participating in the pension plan of the FRS, this shift means the employee earns 2.0 percent service credit for each year of service rather than 1.6 percent service credit. For an employee participating in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 7.67 percent of salary rather than 6.3 percent of salary.

Any employee shifted from the Regular Class to the SMSC is permitted to upgrade retirement credit for service in the same position, but no further back than October 1, 2007, when the criminal conflict and civil regional counsel was created. The upgraded service credit may not be purchased by the member's employer.

Section 2 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because 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:

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 employer contribution rate for regular class effective July 1, 2019 is 8.47%, whereas the contribution rate for senior management service class (SMSC) is 25.41%. The difference is 16.94%.[24]

Based on the above percentage increase the additional employer contributions for the enumerated positions to be paid annually beginning in the 2020-2021 fiscal year are estimated to be $288,234.[25] These funds will be deposited into the Florida Retirement System Trust Fund to be used to pay benefits upon each member's retirement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 121.055 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 Governmental Oversight and Accountability on January 21, 2020:
The CS eliminates new provisions that allowed up to five percent of other criminal conflict regional counsel personnel to be designated as SMSC for retirement purposes.

[24] Department of Management Services 2019-20 Total Rates by Class / Plan (https://www.rol.frs.state.fl.us/forms/ir19-211_rates_only.pdf) (Last visited February 13, 2020)
[25] The Offices of Criminal Conflict and Civil Regional Counsel estimated cost analysis on file with Senate Appropriations Subcommittee on Criminal and Civil Justice.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability; and Senator Perry

585-02435-20 2020952c1

A bill to be entitled

An act relating to the Senior Management Service Class; amending s. 121.055, F.S.; providing that participation in the Senior Management Service Class of the Florida Retirement System is compulsory for each appointed criminal conflict and civil regional counsel and specified staff of the regional counsel beginning on a specified date; authorizing members of the class to purchase and upgrade certain retirement credit; providing an effective date.

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

Section 1. Paragraph (m) is added to subsection (1) of section 121.055, Florida Statutes, to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(m)1. Effective July 1, 2020, participation in the Senior Management Service Class is compulsory for each appointed criminal conflict and civil regional counsel and each district's assistant regional counsel chiefs, administrative directors, and chief investigators.

2. A Senior Management Service Class member under this paragraph may purchase additional retirement credit in the class for creditable service within the purview of the Senior Management Service Class retroactive to October 1, 2007, and may

585-02435-20 2020952c1

upgrade retirement credit for such service in accordance with paragraph (j). However, this service credit may not be purchased by the employer on behalf of the member.

Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/20/2020
Meeting Date

SB 952
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Senior Management Service Class - 2020

Name Candice K. Brower

Job Title Regional Counsel, 1st Region

Address 235 S. Main Street, Suite 205
Street

Gainesville Florida 32601
City *State* *Zip*

Phone 352-377-0567

Email Candice.Brower@rc1.myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Offices of Criminal Conflict & Civil Regional Counsel

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)

02/20/2020
Meeting Date

SB 952
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Senior Management Service Class - 2020

Name Candice K. Brower

Job Title Regional Counsel, 1st Region

Address 235 S. Main Street, Suite 205
Street

Gainesville Florida 32601
City *State* *Zip*

Phone 352-377-0567

Email Candice.Brower@rc1.myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Offices of Criminal Conflict & Civil Regional Counsel

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 1002
INTRODUCER:	Senator Rodriguez
SUBJECT:	Subpoenas
DATE:	February 19, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Elsesser	Cibula	JU	**Favorable**
2.	Dale	Jameson	ACJ	**Recommend: Favorable**
3.	Dale	Kynoch	AP	**Favorable**

I. Summary:

SB 1002 expands the methods by which a law enforcement officer may effect service of an investigative subpoena, court order, or search warrant on an out-of-state corporation that provides electronic communication services or remote computing services. As expanded, service of the documents may be had on the corporation's registered agent under the laws of the state in which service will be effected. The bill also states that out-of-state corporations doing business in Florida through the Internet may be served at any location where the corporation regularly accepts service.

The bill also specifies the means to enforce a subpoena on an in-state or out-of-state corporation that provides electronic communication services or remote computing services. If a corporation fails to comply with a properly-served subpoena, the bill allows a court, upon petition from the authority seeking the subpoena, to hold the non-complying corporation in indirect criminal contempt, and subject the entity to fines.

The bill does not direct the deposit of the fine in any particular manner. As such, when a clerk of the circuit court collects the fine, it would be deposited into the clerk's local Fine and Forfeiture Fund, as directed by section 142.01(g), Florida Statutes. The revenue impact and any increased workload to the clerks of court is unknown as the data needed to quantifiably predict the results of failure to accept service of process and the resultant court actions is unavailable.

The bill takes effect on July 1, 2020.

II. Present Situation:

A subpoena is a written order to compel an individual to give testimony on a particular subject, often before a court, but sometimes in other proceedings.[1] A subpoena duces tecum is a type of subpoena that requires the witness to produce a document or documents pertinent to a proceeding.[2] Section 27.04, F.S., "allows the state attorney to issue subpoenas duces tecum for records as part of an ongoing investigation."[3] The state does not need to establish the relevance and materiality of the information sought through an investigative subpoena,[4] but the subject matter of the investigation must be confined to violations of criminal law.[5]

Section 92.605(2), F.S., describes subpoenas, court orders, and warrants issued in compliance with the Electronic Communications and Privacy Act.[6] The federal act and its Florida counterpart, s. 934.23, F.S., authorize a law enforcement officer, state attorney, or judge to subpoena the records of an out-of-state corporation that provides electronic communication services or remote computing services to the public.

Upon service of a subpoena, court order, or warrant issued in compliance with s. 92.605, F.S. (and by extension with the Electronic Communications and Privacy Act), a corporation must comply within 20 days after receipt of the subpoena. However, if the recipient cannot comply within that time period, it must notify the law enforcement officer who sought the subpoena within the 20-day time period that the records cannot be provided and comply as soon as possible.[7] An "out-of-state corporation," i.e., any corporation qualified to do business in Florida under s. 607.1501, F.S,[8] is "properly served," by subpoena or otherwise, when service is effected on that corporation's registered agent.[9]

Section 92.605, F.S., does not expressly provide a law enforcement officer with a remedy when an out-of-state corporation fails to comply with a subpoena issued under that section.

III. Effect of Proposed Changes:

The bill expands the avenues for service on an out-state corporation, allowing a law enforcement officer to effect service on an out-of-state corporation through its registered agent in Florida or pursuant to the laws of the state where process is to be served. The bill also states that service on an out-of-state corporation doing business in Florida "through the Internet" may also be made at any location where the corporation routinely accepts service.

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[1] *Subpoena*, Legal Information Institute (available at https://www.law.cornell.edu/wex/subpoena).
[2] *Subpoena duces tecum*, Legal Information Institute, (available at https://www.law.cornell.edu/wex/subpoena_duces_tecum).
[3] *State v. Investigation*, 802 So. 2d 1141, 1144 (Fla. 2d DCA 2001).
[4] *Id.*
[5] *Morgan v. State*, 309 So. 2d 552, 553 (Fla. 1975).
[6] 18 U.S.C. § 2701 et seq.
[7] Section 92.605(2)(b), F.S. If the entity seeking the subpoena shows and the court finds that failure to produce the requested records would produce an "adverse result," i.e., physical harm, flight from prosecution, destruction of evidence, intimidation of witnesses, or jeopardy to the investigation, the court may order the records be produced earlier than 20 days. Section 92.605(c), (1)(a), F.S. The court may also extend the time to comply with a subpoena if doing so will not cause an adverse result.
[8] Section 92.605(1)(e), F.S.
[9] Section 92.605(1)(h), F.S. Per s. 607.0505, F.S., a foreign corporation doing business in Florida must have a registered agent, and per s. 607.1507, F.S., such agent must be located in or authorized to transact business in Florida.

If a corporation that provides electronic communication services or remote computing services fails to comply with a properly served subpoena the applicant seeking the subpoena may petition a court to compel compliance. The court may compel compliance by holding the entity in indirect criminal contempt[10] and may punish the entity by a fine of not less than $100 and not more than $1,000 per day for a maximum of 60 days.

The bill does not define what activities constitute "transacting business in this state through the Internet." Section 607.1501(2), F.S., provides a non-exhaustive list of activities that *do not* constitute "transacting business," which includes "transacting business through interstate commerce." If intended, it may be useful to clarify s. 92.605(2), F.S., to state that transacting business through interstate commerce through the Internet subjects a company to the new service procedures in s. 92.605(1)(h).

The bill takes effect on July 1, 2020.

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.

[10] Section 38.22, F.S., authorizes every court to "punish contempts against it whether such contempts be direct, indirect, or constructive." As a common law crime, contempt may be punished "by fine or imprisonment, but the fine shall not exceed $500, nor the imprisonment 12 months," Section 775.02, F.S.

B. Private Sector Impact:

The bill authorizes the imposition of fines and may cause subpoenaed corporations to incur costs to comply with the subpoenas.

C. Government Sector Impact:

The bill authorizes the imposition of a fine but does not direct the fine in any particular manner. As such, when the clerk of the circuit court collects the fine, it would be deposited into the clerk's local Fine and Forfeiture Fund, as directed by s. 142.01(g), F.S. The revenue impact and any increased workload is unknown as the data needed to quantifiably predict the results of failure to accept service of process and the resultant court actions is unavailable.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 92.605, 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 Rodriguez

37-00540A-20 20201002__

A bill to be entitled

An act relating to subpoenas; amending s. 92.605, F.S.; revising the definition of "properly served"; authorizing an applicant to petition a court to compel compliance with a subpoena; authorizing a court to address noncompliance as indirect criminal contempt and impose a daily fine for a specified amount of time; providing an effective date.

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

Section 1. Paragraph (h) of subsection (1) of section 92.605, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

92.605 Production of certain records by Florida businesses and out-of-state corporations.—

(1) For the purposes of this section, the term:

(h) "Properly served" means delivery by hand or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, or facsimile to a person or entity properly registered to do business in any state. In order for an out-of-state corporation to be properly served, the service described in this paragraph must be effected on the corporation's registered agent in this state or as authorized under the laws of the state where process is to be served. Service on an out-of-state corporation doing business in this state through the Internet may also be made at any location where the corporation routinely accepts service.

(10) If a Florida business or an out-of-state corporation

37-00540A-20 20201002__

refuses to comply with a properly served subpoena or does not comply with the requirements of subsection (2) or subsection (3), the applicant who sought the subpoena may petition a court of competent jurisdiction to compel compliance. The court may address the matter as indirect criminal contempt and may punish a business or corporation by a fine of not less than $100 and not more than $1,000 per day for a maximum of 60 days.

Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations Subcommittee on Agriculture, Environment and General Government
Ethics and Elections
Rules

SENATOR JOSE JAVIER RODRIGUEZ
37th District

January 28th, 2020

Chair Bradley
Committee on Appropriations
404 S. Monroe Street
Tallahassee, FL 32399-1100
Sent via email to Bradley.Rob@flsenate.gov

Chair Bradley,

I respectfully request that you place SB 1002: Subpoenas 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.

Thank you,

Senator José Javier Rodríguez
District 37

CC:
Cynthia Sauls Kynoch, Staff Director
Jamie DeLoach, Deputy Staff Director
Ross McSwain, Deputy Staff Director
John Shettle, Deputy Staff Director
Alicia Weiss, Administrative Assistant
Taylor Ferguson, Legislative Assistant to Senator
Mary "M.D." Lee, Legislative Assistant to Senator

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 854-0365
❒ 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

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

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations Subcommittee on Agriculture, Environment and General Government
Ethics and Elections
Rules

SENATOR JOSE JAVIER RODRIGUEZ
37th District

February 5th, 2020

Chair Bradley
Committee on Appropriations
404 S. Monroe Street
Tallahassee, FL 32399-1100
Sent via email to Bradley.Rob@flsenate.gov

Chair Bradley,

I respectfully request that you place SB 1002: Subpoenas 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.

Thank you,

Senator José Javier Rodríguez
District 37

CC:
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John Shettle, Deputy Staff Director
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❒ 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

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

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations Subcommittee on Agriculture, Environment and General Government
Ethics and Elections
Rules

SENATOR JOSE JAVIER RODRIGUEZ
37th District

February 14th, 2020

Chair Bradley
Committee on Appropriations
404 S. Monroe Street
Tallahassee, FL 32399-1100
Sent via email to bradley.rob@flsenate.gov

Chair Bradley,

I respectfully request that you place SB 1002: Subpoenas on the agenda of the Appropriations Committee 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.

Thank you,

Senator José Javier Rodríguez
District 37

CC:
Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Administrative Assistant
Mary Lee, Legislative Assistant
Tonya Shays, Legislative Assistant
Taylor Ferguson, Legislative Assistant

REPLY TO:
☼ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 854-0365
☼ 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

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:	SB 1020
INTRODUCER:	Senator Bean
SUBJECT:	Institutional Formularies Established by Nursing Home Facilities
DATE:	February 19, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kibbey	Brown	HP	**Favorable**
2.	McKnight	Kidd	AHS	**Recommend: Favorable**
3.	McKnight	Kynoch	AP	**Favorable**

I. Summary:

SB 1020 authorizes a nursing home facility to establish and implement an institutional formulary (a list of medicinal drugs) that a pharmacist may use as a therapeutic substitution to replace a resident's prescribed medicinal drug with a chemically different drug listed in the formulary that is expected to have the same clinical effect.

The bill:

- Provides definitions, requirements, and operational parameters for a nursing home facility's implementation of an institutional formulary and for participation by prescribers and pharmacists.
- Requires participating nursing home facilities to establish a committee to develop the institutional formulary and perform quarterly monitoring of clinical outcomes when a therapeutic substitution occurs.
- Requires each prescriber to annually approve, for his or her patients, the use of, and any subsequent changes made to, an institutional formulary and allows a prescriber to opt out of the institutional formulary with regard to a particular patient, medicinal drug, or class of medicinal drugs.
- Prohibits a nursing home facility from taking adverse action against a prescriber for not agreeing to use the facility's institutional formulary.

The bill does not have a fiscal impact on state revenues or expenditures.

The bill takes effect on July 1, 2020.

II. Present Situation:

Substitution of Drug Products

To contain drug costs, virtually every state has adopted laws and regulations that encourage the substitution of drug products.[1] These state laws generally require a substitution be limited to drugs on a specific list (the positive drug formulary approach) or that it be permitted for all drugs except those prohibited by a particular list (the negative drug formulary approach).[2] Florida law authorizes the negative drug formulary approach.

The negative drug formulary is composed of medicinal drugs that have been specifically determined by the Board of Pharmacy and the Board of Medicine to demonstrate clinically significant biological or therapeutic inequivalence and that, if substituted, could produce adverse clinical effects, or could otherwise pose a threat to the health and safety of patients receiving such prescription medications.[3]

Florida law requires pharmacists to substitute a less expensive generic medication for a prescribed brand name medication, unless otherwise indicated by the purchaser.[4] Generic drugs are chemically very similar to their corresponding brand-name drugs. They contain the same active ingredient, have the same strength, use the same dosage form and route of administration, and meet the same quality standards as those of brand-name drugs.[5]

Florida law authorizes, but does not require, a pharmacist to substitute a biosimilar[6] for a prescribed biological product[7] if the biosimilar has been determined by the U.S. Food and Drug Administration to be interchangeable with the prescribed biological product and the prescriber does not express a preference against substitution in writing, orally, or electronically.[8]

For generic and biosimilar substitutions, the pharmacist must notify the patient and advise the patient of the right to reject the substitution and request the prescribed brand name medication or biologic.[9]

Without the express authorization of the prescriber, Florida law does not provide for the substitution of a medicinal drug that is therapeutically equivalent to, but chemically different from, the originally prescribed drug and that is expected to produce a similar patient outcome as

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[1] U.S. Food and Drug Administration, *Orange Book Preface* (Feb. 5, 2018), *available at* https://www.fda.gov/drugs/development-approval-process-drugs/orange-book-preface (last visited Jan. 8, 2020).
[2] *Id*.
[3] Section 465.025(6), F.S.; see also Rule 64B-16.27.500, F.A.C.
[4] Section 465.025(2), F.S.
[5] U.S. Food and Drug Administration, *Understanding Generic Drugs* (Sept. 13, 2017), *available at* https://www.fda.gov/drugs/generic-drugs/overview-basics (last visited Jan. 8, 2020).
[6] 42 U.S.C. s. 262 (i)(2) defines a "biosimilar" is a biological product that is highly similar to the licensed biological product or reference product, that has no clinically meaningful differences in terms of safety, purity, and potency of the product.
[7] 42 U.S.C. s. 262 (i)(1) defines "biological product" as a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein, or analogous product, or arsphenamine or derivative of arsphenamine, applicable to the prevention, treatment, or cure of a disease or condition of human beings.
[8] Section 465.0252(2), F.S.
[9] Sections 465.025(3)(a) and 465.0252(2)(c), F.S., respectively.

the reference drug or treatment. Possible consequences of such therapeutic substitution may include different adverse effects and under- or over-treatment.[10]

Therapeutic Substitution in Other States

There is little research available on the approaches to, and outcomes of, therapeutic substitution laws and regulations in other states. However, research that is available pertains to three states that authorize therapeutic substitution in community pharmacies.[11]

In 2003, Kentucky was the first state to pass a law authorizing therapeutic substitution in community pharmacies. Arkansas followed suit in 2015, and Idaho's legislation took effect on July 1, 2018.[12] In all three states, a prescriber must opt in to allow the therapeutic substitution and the pharmacist must notify the prescriber if any therapeutic substitution is made to ensure a complete and accurate medical record.[13, 14, 15] Arkansas and Kentucky require a pharmacist to notify the prescriber in the first 24 business hours after a therapeutic substitution.[16] Idaho requires such notification within five days.[17] In Idaho and Arkansas, but not in Kentucky, the patient is notified and has a right to refuse the therapeutic substitution.[18]

Idaho and Kentucky require that the substitution be in compliance with the patient's health plan formulary, such as changing from a nonpreferred drug to a preferred drug.[19] Arkansas states that the substitution must be to a drug "that is at a lower cost to the patient."[20] Idaho adopts this lower cost language for patients who do not have health plan coverage.[21]

Several states, including Idaho, have authorized therapeutic substitution in institutional settings.[22] Additionally, Connecticut authorizes a medical director of a nursing home facility to make a substitution for a drug prescribed to a patient of the facility after obtaining authorization from the prescriber.[23] Wisconsin authorizes a pharmacist to make therapeutic substitutions for a

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[10] Robert L. Talbert., *Therapeutic Substitution*, National Conference of State Legislatures, *available at* http://www.ncsl.org/documents/statetribe/RTalbert61010.pdf (last visited Jan. 8, 2020).
[11] Section 465.003(11)(a)1., F.S., defines a community pharmacy as a location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.
[12] Thomas Vanderholm, Donald Klepser, Alex J. Adams, *State Approaches to Therapeutic Interchange in Community Pharmacy Settings: Legislative and Regulatory Authority*, Journal of Managed Care & Specialty Pharmacy, Dec. 2018, 24(12): 1260-1263, https://www.jmcp.org/doi/10.18553/jmcp.2018.24.12.1260 (last visited Jan. 8, 2020).
[13] 201 K.A.R. 2:280, https://apps.legislature.ky.gov/law/kar/201/002/280.pdf (last visited Jan 9, 2020).
[14] Section 54-1768, Idaho Code, https://legislature.idaho.gov/statutesrules/idstat/Title54/T54CH17/SECT54-1768/ (last visited Jan 8, 2020).
[15] Arkansas Register, Regulation 7—drug products/prescriptions. 07-00-0010: Therapeutic substitution, https://www.sos.arkansas.gov/uploads/rulesRegs/Arkansas%20Register/2014/dec2014/070.00.14-006.pdf (last visited Jan. 9, 2020).
[16] *Supra* notes 13 and 15.
[17] *Supra* note 14.
[18] *Supra* notes 14 and 15.
[19] *Supra* note 12.
[20] *Id.*
[21] *Id.*
[22] *Supra* note 14.
[23] Conn. Gen. Stat. Ch. 368v 19a-521d., https://www.cga.ct.gov/current/pub/chap_368v.htm#sec_19a-521d (last visited Jan. 9, 2020).

nursing home patient if approved by the patient's attending physician for the patient's period of stay within the facility.[24]

Institutional Formulary Systems in Florida

Section 465.019, F.S., authorizes a Class II[25] or Class III[26] institutional pharmacy to adopt an institutional formulary system for use with approval of the medical staff for the purpose of identifying those medicinal drugs, proprietary preparations, biologics, biosimilars, and biosimilar interchangeables that may be dispensed by the pharmacists employed in such institution. The term "institutional formulary system" means "a method whereby the medical staff evaluates, appraises, and selects those medicinal drugs or proprietary preparations which in the medical staff's clinical judgment are most useful in patient care, and which are available for dispensing by a practicing pharmacist in a Class II or Class III institutional pharmacy."[27]

A facility that adopts an institutional formulary system under section 465.019, F.S., must establish policies and procedures for the development of the system in accordance with the joint standards of the American Hospital Association and the American Society of Hospital Pharmacists (now known as the American Society of Health-System Pharmacists[28]) for the utilization of a hospital formulary system, which must be approved by the medical staff.

Nursing Homes and Residents' Rights

Federal law requires nursing home facilities to provide routine and emergency drugs to residents, or to obtain them under an agreement.[29] A nursing home facility must employ or obtain the services of a licensed pharmacist and provide pharmaceutical services to meet the needs of each resident.[30] Florida law requires the Agency for Health Care Administration to license and regulate nursing homes pursuant to part II of chapter 408 and part II of chapter 400, F.S., respectively.

Section 400.022, F.S., requires a nursing home facility to adopt a statement of residents' rights and to provide a copy of the statement to each resident or the resident's legal representative at or before the resident's admission to the facility. The statement must assure each resident the right to:

- Civil and religious liberties, including knowledge of available choices and the right to independent personal decision, which will not be infringed upon, and the right to

[24] Wis. Stat. s. 450.01(16)(hm) https://docs.legis.wisconsin.gov/statutes/statutes/450/13 (last visited Jan. 8, 2020).
[25] Section 465.019(2)(b), F.S. defines "class II institutional pharmacies" as those institutional pharmacies which employ the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution, for use on the premises of that institution.
[26] Section 465.019(2)(d)1., F.S., defines "class III institutional pharmacies" as those institutional pharmacies, including central distribution facilities, affiliated with a hospital that provide the same services that are authorized by a Class II institutional pharmacy permit that may also dispense, distribute, compound, and fill prescriptions for medicinal drugs and prepare prepackaged drug products.
[27] Section 465.003, F.S.
[28] American Society of Health-System Pharmacists, *ASHP History*¸ https://www.ashp.org/About-ASHP/Our-History/ASHP-History (last visited Jan. 9, 2020).
[29] 42 CFR § 483.45.
[30] *Id.*

encouragement and assistance from the staff of the facility in the fullest possible exercise of these rights.

- Be adequately informed of his or her medical condition and proposed treatment, unless the resident is determined to be unable to provide informed consent under Florida law, or the right to be fully informed in advance of any nonemergency changes in care or treatment that may affect the resident's well-being; and, except with respect to a resident adjudged incompetent, the right to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the resident's physician; and to know the consequences of such actions.
- Receive adequate and appropriate health care and protective and support services.
- Obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense or through Medicaid.

A nursing home that violates the statement of resident's rights set forth in s. 400.022, F.S., may be subject to administrative fines, emergency moratorium on admissions, or denial, suspension, or revocation of license if it violates a resident's rights, depending on the nature of the violation and the gravity of its probable effect on clients.[31]

III. Effect of Proposed Changes:

Section 1 creates s. 400.143, F.S., to

- Add definitions for "institutional formulary," "medicinal drug," "prescriber," and "therapeutic substitution."
- Authorize a nursing home facility to establish and implement an institutional formulary that a pharmacist may use as a therapeutic substitution for a medicinal drug prescribed to a resident of the facility.
- Require a nursing home facility that implements an institutional formulary to:
  - Establish a committee to develop the institutional formulary, as well as written guidelines or procedures. The committee must consist of, at a minimum, the facility's medical director and director of nursing, and a consultant pharmacist licensed by the Department of Health.
  - Establish methods and criteria for selecting and objectively evaluating all available pharmaceutical products that may be used as therapeutic substitutes.
  - Establish policies and procedures for developing and maintaining the formulary and for approving and notifying prescribers of the formulary.
  - Perform quarterly monitoring to ensure compliance of policies and procedures and monitor clinical outcomes when a therapeutic substitution occurs.
- Require the nursing home facility to maintain and make available all written policies and procedures for the institutional formulary.
- Require a prescriber to annually authorize, for his or her patients, the institutional formulary and opt into any subsequent changes made to the facility's institutional formulary. The prescriber may opt out of the institutional formulary with regard to a specific patient, a particular drug, or a class of drugs. A prescriber may prevent a therapeutic substitution for a specific medication order by indicating verbally or electronically on the prescription "NO THERAPEUTIC SUBSTITUTION."

[31] Sections 400.022 and 408.813, F.S.

- Prohibit a nursing home facility from taking adverse action against a prescriber for not agreeing to use the facility's institutional formulary.

Section 2 amends s. 465.025, F.S., to authorize, but not require, a pharmacist to therapeutically substitute medicinal drugs for a resident of a nursing home in accordance with the nursing home's institutional formulary if the prescriber has agreed to the use of the institutional formulary and has not indicated "NO THERAPEUTIC SUBSTITUTION."

Section 3 establishes an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 465.025 of the Florida Statutes.

This bill creates section 400.143 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

4-01221-20 20201020__

A bill to be entitled

An act relating to institutional formularies established by nursing home facilities; creating s. 400.143, F.S.; defining terms; authorizing a nursing home facility to establish and implement an institutional formulary; requiring such formulary to be developed by a committee established by the nursing home facility; providing for committee membership; providing requirements for the development and implementation of the institutional formulary; requiring a nursing home facility to maintain written policies and procedures for the institutional formulary; requiring a nursing home facility to make available such policies and procedures to the Agency for Health Care Administration, upon request; requiring a prescriber to annually authorize the use of the institutional formulary for certain patients; requiring the prescriber to opt into any changes made to the institutional formulary; authorizing a prescriber to opt out of use of the institutional formulary or to prevent a therapeutic substitution, under certain circumstances; prohibiting a nursing home facility from taking adverse action against a prescriber for refusing to agree to the use of the institutional formulary; amending s. 465.025, F.S.; authorizing a pharmacist to therapeutically substitute medicinal drugs under an institutional formulary established by a nursing home facility, under certain circumstances; prohibiting a pharmacist from

4-01221-20 20201020__

therapeutically substituting a medicinal drug, under certain circumstances; providing an effective date.

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

Section 1. Section 400.143, Florida Statutes, is created to read:

400.143 Institutional formularies established by nursing home facilities.—

(1) For purposes of this section, the term:

(a) "Institutional formulary" means a list of medicinal drugs established by a nursing home facility under this section for which a pharmacist may use a therapeutic substitution for a medicinal drug prescribed to a resident of the facility.

(b) "Medicinal drug" has the same meaning as provided in s. 465.003(8).

(c) "Prescriber" has the same meaning as provided in s. 465.025(1).

(d) "Therapeutic substitution" means the practice of replacing a nursing home facility resident's prescribed medicinal drug with another chemically different medicinal drug that is expected to have the same clinical effect.

(2) A nursing home facility may establish and implement an institutional formulary in accordance with the requirements of this section.

(3) A nursing home facility that implements an institutional formulary under this section shall:

(a) Establish a committee to develop the institutional formulary and written guidelines or procedures for such

institutional formulary. The committee must consist of, at a minimum, all of the following:

1. The facility's medical director.

2. The facility's director of nursing services.

3. A consultant pharmacist licensed by the Department of Health and certified under s. 465.0125.

(b) Establish methods and criteria for selecting and objectively evaluating all available pharmaceutical products that may be used as therapeutic substitutes.

(c) Establish policies and procedures for developing and maintaining the institutional formulary and for approving, disseminating, and notifying prescribers of the institutional formulary.

(d) Perform quarterly monitoring to ensure compliance with the policies and procedures established under paragraph (c) and monitor the clinical outcomes in circumstances in which a therapeutic substitution has occurred.

(4) The nursing home facility shall maintain all written policies and procedures for the institutional formulary established under this section. Each nursing home facility shall make available such policies and procedures to the agency, upon request.

(5)(a) A prescriber shall annually authorize the institutional formulary for his or her patients and shall opt into any subsequent changes made to a nursing home facility's institutional formulary.

(b) A prescriber may opt out of the nursing home facility's institutional formulary with respect to a particular patient, medicinal drug, or class of medicinal drugs.

(c) A prescriber may prevent a therapeutic substitution for a specific medication order if such order is provided verbally or generated and transmitted electronically by indicating "NO THERAPEUTIC SUBSTITUTION" on the prescription.

(d) A nursing home facility may not take adverse action against a prescriber for refusing to agree to the use of the facility's institutional formulary.

Section 2. Subsection (9) is added to section 465.025, Florida Statutes, to read:

465.025 Substitution of drugs.—

(9) A pharmacist may therapeutically substitute medicinal drugs in accordance with an institutional formulary established under s. 400.143 for the resident of a nursing home facility if the prescriber has agreed to the use of such institutional formulary. The pharmacist may not therapeutically substitute a medicinal drug pursuant to the facility's institutional formulary if the prescriber indicates verbally or electronically on the prescription "NO THERAPEUTIC SUBSTITUTION," as authorized under s. 400.143(5)(c).

Section 3. This act shall take effect July 1, 2020.

The Florida Senate

Committee Agenda Request

To: Senator Gayle Harrell, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: January 30, 2020

I respectfully request that **Senate Bill # 1020**, relating to Institutional Formularies Established by Nursing Home Facilities, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Aaron Bean

Senator Aaron Bean
Florida Senate, District 4

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/20
Meeting Date

1020
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Bob Asztalos

Job Title Chief Lobbyist

Address 307 W Park Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-224-3907

Email baszthls@FHCA.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

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 1146
INTRODUCER:	Criminal Justice Committee and Senator Brandes
SUBJECT:	Special Risk Class of the Florida Retirement System
DATE:	February 19, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	**Fav/CS**
2.	McVaney	McVaney	GO	**Favorable**
3.	Forbes	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1146 amends section 121.0515, Florida Statutes, to revise criteria for membership in the Special Risk Class of the Florida Retirement System (FRS) to include juvenile justice detention officers I and II and juvenile justice detention supervisors with the Department of Juvenile Justice (DJJ).

Juvenile justice detention officers I and II (JDO) serve as a front-line direct care staff who supervise and manage all youth assigned to a juvenile detention center. JDOs are tasked with ensuring the safety and security of all youth in custody, and that youth are provided their constitutional rights regarding access to legal, medical, and mental health issues. This bill provides a legislative declaration that the bill fulfills an important state interest.

The DJJ will incur roughly $6.2 million annually in additional retirement contributions to fund these enhanced benefits for detention officers and supervisors shifting from the Regular Class to the Special Risk Class of the Florida Retirement System. The costs incurred by DJJ will be partially offset by increased cost-sharing payments allocated to counties for detention costs paid pursuant to section 985.6865, Florida Statutes. See Section V.

This bill is effective July 1, 2020.

II. Present Situation:

The Florida Retirement System (FRS)

General Background

The FRS was established in 1970.[1] The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S. As of June 30, 2019, the FRS had 647,942 active members, 424,895 annuitants, 15,783 disabled retirees, and 32,670 active participants of the Deferred Retirement Option Program (DROP).[2] As of June 30, 2019, the FRS consisted of 976 participating employers enrolling new members and 44 participating employers closed to new FRS membership with grandfathered FRS members.[3]

The membership of the FRS is divided into five membership classes:
- The Regular Class[4] consists of 554,631 active members and 7,629 in renewed membership;[5]
- The Special Risk Class[6] includes 74,274 active members and 1,112 in renewed membership;
- The Special Risk Administrative Support Class[7] has 100 active members;
- The Elected Officers' Class[8] has 2,088 active members and 112 in renewed membership; and
- The Senior Management Service Class[9] has 7,767 active members and 214 in renewed membership.[10]

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.

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[1] Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, *Florida Retirement System Pension Plan and Other State Administered Retirement Systems*, p. 35, available at https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf (last visited January 6, 2020).
[2] *Id.* at 158.
[3] *Id.* at 8.
[4] The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.
[5] Effective July 1, 2017, retirees of specified defined contribution plans employed in a regularly established position are eligible to be enrolled as renewed members of the defined contribution plan covering the position held except the Senior Management Service Optional Annuity Program that is closed to new members. FRS Pension Plan retirees remain ineligible for renewed membership. Section 121.122, F.S.
[6] 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.
[7] The Special Risk Administrative Support Class is for a Special Risk Class 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 FRS. Section 121.0515(8), F.S.
[8] 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.
[9] 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.
[10] Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, *Florida Retirement System Pension Plan and Other State Administered Retirement Systems*, p. 161, available at https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf (last visited January 6, 2020).

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.

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

> [A]re 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.[11]

Compared to Regular Class members, a person who is a member in the Special Risk Class of the FRS pension plan earns a higher annual service accrual rate, may retire at an earlier age and is eligible to receive higher disability and death benefits. As a result, the contribution rate to fund the normal cost of the Special Risk benefits is higher than the contribution rates to fund the normal cost of the Regular Class benefits. Similarly, the contribution rate to fund the unfunded liabilities of the Special Risk Class is higher than the same type contribution rate for the Regular Class.[12] Special Risk Class members of the FRS investment plan receive total contributions into the individual investment accounts equal to 14 percent of salary. A Regular Class member receives total contributions equal to 6.3 percent of salary.

The table below shows the contribution rates for the Regular Class and the Special Risk Class as enacted for FY 2019-2020[13] and as recommended by the state actuary[14] beginning FY 2020-2021.

[11] Section 121.0515(1), F.S.
[12] Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, *Florida Retirement System Pension Plan and Other State Administered Retirement Systems*, p. 41, available at https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf (last visited January 6, 2020).
[13] Section 121.71(4) and (5), F.S.
[14] Letter to Mr. David DiSalvo, *Re: Blended Proposed Statutory Rates for the 2020-2021 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP*, dated December 5, 2019 (on file with the Senate Committee on Governmental Oversight and Accountability).

	2019-20		2020-21	
Rates to fund	Regular Class	Special Risk Class	Regular Class	Special Risk Class
Normal Cost	3.19%	12.61%	4.84%	15.13%
Unfunded Actuarial Liability	3.56%	11.15%	3.44%	7.60%
Total Contribution	6.75%	23.76%	8.28%	22.73%

Cost Sharing

Cost sharing is governed by s. 985.6865, F.S., which provides, notwithstanding s. 985.686, F.S., each fiscal year, every county that is not fiscally constrained[15] and that has dismissed any action or claim described in s. 985.6865(2), F.S.,[16] must pay 50 percent of the total shared detention cost.[17]

The DJJ calculates a county's annual percentage share by dividing the total number of detention days for juveniles residing in the non-fiscally constrained county for the most recently completed 12-month period by the total number of detention days for juveniles in all non-fiscally constrained counties. The county must pay 50 percent of the annual percentage share in 12 equal payments, due on the first day of each month.[18]

Counties that are required to pay their share of detention costs must incorporate sufficient funds to pay its share of detention costs into its annual budget.[19] Funds paid by the counties to the DJJ under this section must be deposited into the Shared County/State Juvenile Detention Trust Fund.[20] The DJJ will determine quarterly whether counties are complying with this section.[21]

The State must pay all costs of detention care for juveniles:
- Residing in a fiscally constrained county.
- Residing out of State.
- Housed in state detention centers from counties that provide their own detention care for juveniles.[22]

[15] Section 985.6865(3)(b), F.S., defines "fiscally constrained county" as a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than $5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1.
[16] Various counties and the DJJ have engaged in a multitude of legal proceedings, including administrative or judicial claims, regarding detention cost sharing for juveniles. Such litigation has largely focused on how the DJJ calculates the detention costs that the counties are responsible for paying, leading to the overbilling of counties for a period of years. Sections 985.6865(1) and (2), F.S.
[17] Section 985.6865(4), F.S.
[18] *Id.*
[19] Section 985.6865(6), F.S.
[20] Section 985.6865(7), F.S.
[21] Section 985.6865(8), F.S.
[22] Section 985.6865(5), F.S.

Department of Juvenile Justice

JDOs serve as front-line direct care staff who supervise and manage all youth assigned to juvenile detention centers.[23] The DJJ operates 21 secure detention centers in 21 counties with a total of 1,243 beds. Youth placed in secure detention have been assessed as risks to public safety and must remain in a physically secure detention center while awaiting court proceedings.[24]

Section 985.66, F.S., provides minimum requirements for program staff of the DJJ who deliver direct-care services. These minimum requirements include that the staff must:

- Be at least 19 years of age.
- Be a high school graduate or its equivalent as determined by the DJJ.
- Not have been convicted of any felony or a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States.
- Abide by all of s. 985.644(1), F.S., which provides requirements for fingerprinting and background investigations.
- Execute and submit to the department an affidavit-of-application form, adopted by the DJJ, attesting to his or her compliance with the above requirements.[25]

Section 985.66, F.S., also provides that the DJJ must establish staff development and training, and requires that DJJ staff who provide direct care must complete the DJJ-approved program of training pertinent to their areas of responsibility.[26]

The DJJ had a total of 1,172 JDO direct care worker positions that supervised a total of 12,290 youth during the Fiscal Year 2018-2019. The turnover rate for the entry-level JDO positions was 64 percent for Fiscal Year 2018-2019, and the average vacancy rate was 25 percent. According to the DJJ, this has led to the DJJ spending over $6 million per year over the last four fiscal years in overtime pay to compensate for these vacancies.[27]

As of July 2019, approximately 51 percent of the detention workforce had less than two years of experience. JDOs rely on hand-to-hand takedowns when a situation escalates to a physical altercation, and they do not carry tasers or pepper spray. The DJJ has a 63 percent higher workers' compensation claim rate than the Florida Department of Corrections. According to the DJJ, in Fiscal Year 2018-2019, 31 out of every 100 JDOs were injured on the job, 41 were victims of assault by youth, and 135 staff were injured while trying to restrain a youth in an emergency situation.[28]

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[23] Department of Juvenile Justice, *2020 Agency Analysis of SB 1146* (December 19, 2019). On file with the Senate Committee on Criminal Justice.
[24] Department of Juvenile Justice, *Detention Services*, available at http://www.djj.state.fl.us/services/detention (last visited January 6, 2020).
[25] Section 985.66(3), F.S.
[26] *Id.*
[27] Department of Juvenile Justice, *2020 Agency Analysis of SB 1146* (December 19, 2019). On file with the Senate Committee on Criminal Justice.
[28] *Id.*

JDOs and juvenile justice detention supervisors are currently not eligible for Special Risk Class retirement.

III. Effect of Proposed Changes:

Section 1 amends s. 121.0515, F.S., to revise criteria for membership in the Special Risk Class of the Florida Retirement System (FRS) to include JDOs and juvenile justice detention supervisors within the Department of Juvenile Justice (DJJ).

To be eligible for Special Risk Class membership, the employee must:

- Be employed as a JDO or JDO supervisor at the DJJ;
- Be certified or required to be certified in accordance with s. 985.66(3), F.S., which provides minimum requirements for staff and requires the DJJ to establish staff development and training programs; and either
- Have primary duties and responsibilities that include ensuring the custody, and applying physical restraint when necessary, of detained youth within a juvenile detention facility or while being transported; or
- Be the supervisor or command officer of a member who has such duties and responsibilities.

Section 2 provides a legislative declaration that the bill fulfills an important state interest.

This bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides 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: ...the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature…."

This bill reclassifies JDOs and juvenile justice detention supervisors as members of the Special Risk Class in the FRS. This reclassification increases the costs incurred by the DJJ relating to detention of juveniles. While this bill does not expressly require a county or municipality to expend funds, counties will be responsible for 50 percent of the cost increase associated with the reclassification of county JDOs and supervisors, in accordance with s. 985.6865, F.S., which establishes the cost-sharing requirements between the DJJ and counties.

The bill contains a declaration that this bill fulfills an important state interest (see section 2).

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:

This bill reclassifies JDOs and juvenile justice detention supervisors as members of the Special Risk Class in the FRS rather than the Regular Class. This reclassification of retirement classes increases the personnel costs by 14.45 percent of payroll. Beginning in Fiscal Year 2020-2021, the DJJ will incur higher annual retirement contributions to fund these enhanced benefits for the employees moving from the Regular Class to the Special Risk Class of the FRS as specified in this bill.

The DJJ has requested $6.2 million in recurring funds for Special Risk retirement benefits for JDOs and juvenile justice detention supervisors.[29] Beginning in Fiscal Year 2021-2022, counties will be billed for their portion of the increase in cost in accordance with s. 985.6865, F.S.[30] Non-fiscally constrained counties are required to contribute 50 percent of the total detention costs to the DJJ.[31]

SB 2500, the Senate's General Appropriations Bill for Fiscal Year 2020-2021, provides funds to accomplish the purposes of this bill.

VI. Technical Deficiencies:

None.

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[29] Florida Fiscal Portal, *Agency Legislative Budget Request for Fiscal Year 2020-2021, Exhibit D-3A: Expenditures by Issue and Appropriation Category*, available at http://floridafiscalportal.state.fl.us/Document.aspx?ID=19211&DocType=PDF (last visited January 6, 2020).

[30] Department of Juvenile Justice, *2020 Agency Analysis of SB 1146* (December 19, 2019).

[31] Section 985.6865(4), F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 121.0515 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 January 21, 2020:
The committee substitute changes the terms "juvenile detention officer" to "juvenile justice detention officers I and II" and "juvenile detention officer supervisor" to "juvenile justice detention officer supervisor."

Additionally, the committee substitute provides a declaration that the bill fulfills an important state interest.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Brandes

591-02400-20 20201146c1

A bill to be entitled

An act relating to the Special Risk Class of the Florida Retirement System; amending s. 121.0515, F.S.; adding juvenile justice detention officers I and II and juvenile justice detention officer supervisors employed by the Department of Juvenile Justice who meet certain criteria to the class; providing a declaration of important state interest; providing an effective date.

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

Section 1. Subsection (3) of section 121.0515, Florida Statutes, is amended, and paragraph (i) is added to subsection (2) of that section, to read:

121.0515 Special Risk Class.—

(2) MEMBERSHIP.—

(i) Effective July 1, 2020, the member must be employed by the Department of Juvenile Justice as a juvenile justice detention officer I or II or a juvenile justice detention officer supervisor and meet the special criteria set forth in paragraph (3)(k).

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(a) Effective October 1, 1978, the member must be employed as a law enforcement officer and be certified, or required to be certified, in compliance with s. 943.1395, except that~~; however,~~ sheriffs and elected police chiefs are not required to be certified ~~excluded from meeting the certification requirements~~

591-02400-20 20201146c1

~~of this paragraph~~. In addition, the member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or as of July 1, 1982, the member must be an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included;

(b) Effective October 1, 1978, the member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.408 and be employed solely within the fire department of a local government employer or an agency of state government with firefighting responsibilities. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires; as of October 1, 2001, fire prevention or firefighter training; as of October 1, 2001, direct supervision of firefighting units, fire prevention, or firefighter training; or as of July 1, 2001, aerial firefighting surveillance performed by fixed-wing aircraft pilots employed by the Florida Forest Service of the Department of Agriculture and Consumer Services; or the member must be the supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included. All periods of creditable service

in fire prevention or firefighter training, or as the supervisor or command officer of a member or members who have such responsibilities, and for which the employer paid the special risk contribution rate, are included;

(c) Effective October 1, 1978, the member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the custody, and physical restraint if ~~when~~ necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or as of July 1, 1984, the member must be the supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included; however, wardens and assistant wardens, as defined by rule, are included;

(d) Effective October 1, 1999, the member must be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer as an emergency medical technician or a paramedic and be certified in compliance with s. 401.27. In addition, the member's primary duties and responsibilities must include on-the-scene emergency medical care or as of October 1, 2001, direct supervision of emergency medical technicians or paramedics, or the member must be the supervisor or command officer of one or more members who have such responsibility. Administrative support personnel, including, but not limited to, those whose primary responsibilities are in accounting,

purchasing, legal, and personnel, are not included;

(e) Effective January 1, 2001, the member must be employed as a community-based correctional probation officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the member must be the supervisor of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal services, and personnel management, are not included; however, probation and parole circuit and deputy circuit administrators are included;

(f) Effective January 1, 2001, the member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties that ~~which~~ involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204);
2. Public health nutrition consultant (class code 5224);
3. Psychological specialist (class codes 5230 and 5231);
4. Psychologist (class code 5234);
5. Senior psychologist (class codes 5237 and 5238);
6. Regional mental health consultant (class code 5240);
7. Psychological Services Director—DCF (class code 5242);
8. Pharmacist (class codes 5245 and 5246);
9. Senior pharmacist (class codes 5248 and 5249);

10. Dentist (class code 5266);

11. Senior dentist (class code 5269);

12. Registered nurse (class codes 5290 and 5291);

13. Senior registered nurse (class codes 5292 and 5293);

14. Registered nurse specialist (class codes 5294 and 5295);

15. Clinical associate (class codes 5298 and 5299);

16. Advanced practice registered nurse (class codes 5297 and 5300);

17. Advanced practice registered nurse specialist (class codes 5304 and 5305);

18. Registered nurse supervisor (class codes 5306 and 5307);

19. Senior registered nurse supervisor (class codes 5308 and 5309);

20. Registered nursing consultant (class codes 5312 and 5313);

21. Quality management program supervisor (class code 5314);

22. Executive nursing director (class codes 5320 and 5321);

23. Speech and hearing therapist (class code 5406); or

24. Pharmacy manager (class code 5251);

(g) Effective October 1, 2005, through June 30, 2008, the member must be employed by a law enforcement agency or medical examiner's office in a forensic discipline recognized by the International Association for Identification and must qualify for active membership in the International Association for Identification. The member's primary duties and responsibilities must include the collection, examination, preservation,

documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility. Administrative support personnel, including, but not limited to, those whose primary responsibilities are clerical or in accounting, purchasing, legal, and personnel, are not included;

(h) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of State Fire Marshal in the forensic laboratory in one of the following classes:

1. Forensic technologist (class code 8459);

2. Crime laboratory technician (class code 8461);

3. Crime laboratory analyst (class code 8463);

4. Senior crime laboratory analyst (class code 8464);

5. Crime laboratory analyst supervisor (class code 8466);

6. Forensic chief (class code 9602); or

7. Forensic services quality manager (class code 9603);

(i) Effective July 1, 2008, the member must be employed by a local government law enforcement agency or medical examiner's office and must spend at least 65 percent of his or her time performing duties that involve the collection, examination, preservation, documentation, preparation, or analysis of human tissues or fluids or physical evidence having potential biological, chemical, or radiological hazard or contamination, or use chemicals, processes, or materials that may have carcinogenic or health-damaging properties in the analysis of such evidence, or the member must be the direct supervisor of one or more individuals having such responsibility. If a special

risk member changes to another position within the same agency, he or she must submit a complete application as provided in paragraph (4)(a); ~~or~~

(j) The member must have already qualified for and be actively participating in special risk membership under paragraph (a), paragraph (b), or paragraph (c), must have suffered a qualifying injury as defined in this paragraph, must not be receiving disability retirement benefits as provided in s. 121.091(4), and must satisfy the requirements of this paragraph.

1. The ability to qualify for the class of membership defined in paragraph (2)(h) occurs when two licensed medical physicians, one of whom is a primary treating physician of the member, certify the existence of the physical injury and medical condition that constitute a qualifying injury as defined in this paragraph and ~~that~~ the member has reached maximum medical improvement after August 1, 2008. The certifications from the licensed medical physicians must include, at a minimum, that the injury to the special risk member has resulted in a physical loss, or loss of use, of at least two of the following: left arm, right arm, left leg, or right leg; and that:

a. The ~~That this~~ physical loss or loss of use is total and permanent, unless ~~except if~~ the loss of use is due to a physical injury to the member's brain, in which event the loss of use is permanent with at least 75 percent loss of motor function with respect to each arm or leg affected.

b. The ~~That this~~ physical loss or loss of use renders the member physically unable to perform the essential job functions of his or her special risk position.

c. ~~That,~~ Notwithstanding this physical loss or loss of use, the individual can perform the essential job functions required by the member's new position, as provided in subparagraph 3.

d. ~~That~~ Use of artificial limbs is not possible or does not alter the member's ability to perform the essential job functions of the member's position.

e. ~~That~~ The physical loss or loss of use is a direct result of a physical injury and not a result of any mental, psychological, or emotional injury.

2. For the purposes of this paragraph, "qualifying injury" means an injury sustained in the line of duty, as certified by the member's employing agency, by a special risk member which ~~that~~ does not result in total and permanent disability as defined in s. 121.091(4)(b). An injury is a qualifying injury if the injury is a physical injury to the member's physical body resulting in a physical loss, or loss of use, of at least two of the following: left arm, right arm, left leg, or right leg. Notwithstanding any other provision of this section, an injury that would otherwise qualify as a qualifying injury is not ~~considered~~ a qualifying injury if and when the member ceases employment with the employer for whom he or she was providing special risk services on the date the injury occurred.

3. The new position, as described in sub-subparagraph 1.c., which ~~that~~ is required for qualification as a special risk member under this paragraph is not required to be a position with essential job functions that entitle an individual to special risk membership. Whether a new position as described in sub-subparagraph 1.c. exists and is available to the special risk member is a decision to be made solely by the employer in

accordance with its hiring practices and applicable law.

4. This paragraph does not grant or create additional rights for any individual to continued employment or to be hired or rehired by his or her employer which ~~that~~ are not already provided by state law ~~within the Florida Statutes~~, the State Constitution, the Americans with Disabilities Act, if applicable, or any other ~~applicable state or~~ federal law; or

(k) Effective July 1, 2020, the member must be employed as a juvenile justice detention officer I or II or a juvenile justice detention officer supervisor at the Department of Juvenile Justice; be certified in accordance with s. 985.66(3); and have primary duties and responsibilities that include ensuring the custody, and applying physical restraint when necessary, of detained youth within a juvenile detention facility or while being transported, or be the supervisor of a member who has such duties and responsibilities.

Section 2. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems. These persons must be provided benefits that are fair and adequate and that are managed, administered, and funded in an actuarially sound manner, as required by s. 14, Article X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

2/20/20
Meeting Date

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

1146
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Rachel Moscoso

Job Title Leg. Affairs Director

Address 2737 Centerview Dr.
Street

TLH FL 32308
City *State* *Zip*

Phone 850-717-2716

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Department of Juvenile Justice

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

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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:	CS/CS/SB 1166
INTRODUCER:	Appropriations Committee; Commerce and Tourism Committee; and Senator Albritton
SUBJECT:	Broadband Internet Service
DATE:	February 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	**Fav/CS**
2.	McAuliffe	Hrdlicka	ATD	**Recommend: Favorable**
3.	McAuliffe	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1166 transfers the locus of broadband policy implementation from the Department of Management Services to the Department of Economic Opportunity. Specifically, the bill:

- Designates the Department of Economic Opportunity to replace the Department of Management Services as the agency responsible for broadband policy in Florida; and
- Creates the Florida Office of Broadband within the Department of Economic Opportunity's Division of Community Development, to which the bill transfers specific duties regarding the development, marketing, and promotion of broadband.

The bill also authorizes the Department of Transportation, beginning in Fiscal Year 2022-2023, to use up to $5 million annually from the State Transportation Trust Fund allocation to the Multi-use Corridors of Regional Economic Significance program for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor.

The Department of Economic Opportunity can implement the bill within existing resources.

The bill is effective July 1, 2020.

I. Present Situation:

Florida Agency Broadband Initiatives

Fixed and mobile broadband services provide Americans, especially those in rural and remote areas of the country, access to numerous employment, education, entertainment, and health care opportunities.[1] Additionally, communities that lack broadband access can have difficulty attracting new capital investment because broadband access is critical to today's businesses. "Corporate site selectors expect broadband. It is not a perk or special benefit."[2] Florida's urban areas are served at a fixed broadband coverage rate of 98 percent, but only 75.2 percent of its rural areas have coverage.[3] This disparity between urban and rural broadband access exists because of high construction costs to build the broadband infrastructure across the large swaths of rural geographic areas and lower customer base across the low-density areas.[4] A 2016 study determined that 16 Florida counties are underserved by fixed broadband services.[5]

Department of Management Services

In 2009, the Legislature authorized the Department of Management Services (DMS) to apply for grants and lead broadband planning and deployment throughout Florida, especially in rural, unserved, and underserved areas.[6] Pursuant to s. 364.0135, F.S., the DMS was directed to collaborate with Enterprise Florida, Inc., other state agencies, local governments, private businesses, and community organizations to:

- Monitor broadband adoption across Florida;
- Create a strategic plan to increase the use of broadband Internet service in Florida;
- Map Florida's broadband transmission speeds and availability;
- Build and facilitate local technology planning teams, especially with community members from the areas of education, healthcare, business, tourism, agriculture, economic development, and local government; and
- Encourage public use of Internet service through broadband grant programs.

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[1] U.S. Federal Communications Commission, *2018 Broadband Deployment Report* at 1, Feb. 2, 2018, https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2018-broadband-deployment-report (last visited Feb. 1, 2020).
[2] M. McQuade, *The Importance of Broadband to Economic Development* (Sept. 2011), Site Selection Magazine, https://siteselection.com/issues/2011/sep/sas-optical-infrastructure.cfm (last visited Feb. 1, 2020).
[3] U.S. Federal Communications Commission, *supra* note 1, at 58-59. For purposes of this data, 'fixed broadband services' are measured at 25 megabits per second downstream and 3 megabits per second upstream.
[4] American Broadband Initiative, *Milestones Report*, 11 (Feb. 13, 2019), https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/american_broadband_initiative_milestones_report_feb_2019_0.pdf (last visited Feb. 1, 2020).
[5] Dr. Ed H. Moore, *Expanding Local Access to the Internet Infrastructure & Customized Distance Learning to Advance Educational Attainment, Economic Development & County Growth*, Independent Colleges & Universities of Florida, https://www.floridahighereducation.org/_doc_meetings/20171030/Moore-10_30_17-Access-to-Internet-Distance-Learning-for-Educational-Attainment-Economic-Development-County-Growth.pdf (last visited Feb. 1, 2020).
[6] Chapter 2009-226, s. 2, Laws of Fla. (creating s. 364.0135, F.S., effective July 1, 2009).

The DMS could also accept federal and private funds to further these goals.[7] These activities were funded by an $8,887,028 grant from the U.S. Department of Commerce National Telecommunications Information Administration's (NTIA) State Broadband Initiative.[8]

Department of Economic Opportunity

The Department of Economic Opportunity's (DEO) Rural Infrastructure Fund (RIF) facilitates the planning, preparation, and financing of infrastructure projects, including broadband facilities, in rural communities that will encourage job creation, capital investment, and other economic benefits.[9] The RIF program attracts local and federal government and private funding, in part, by matching up to 40 percent of a project's cost with state grant funds.[10]

Department of Transportation—Multi-use Corridors of Regional Economic Significance

The Florida Department of Transportation's (FDOT) Multi-use Corridors of Regional Economic Significance (M-CORES) program is designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure. The purpose of the program is to revitalize rural communities, encourage job creation, and provide regional connectivity, creating benefits that include addressing broadband connectivity in these rural areas.[11] Beginning in Fiscal Year 2022-2023, the M-CORES program has designated funding of $35 million annually.[12] These funds must be used for the program with preference to feeder roads, interchanges, and appurtenances that create or facilitate multiuse corridor access and connectivity.

Senate Bill 1242 (2012)

In the 2012 Regular Session, the Legislature passed a bill that would have transferred the state broadband programs from the DMS to the DEO. Although the enrolled bill was signed into law by the Governor on April 20, 2012, it never took effect and the transfer did not occur.[13] The bill made the agency transfer contingent on the approval by the U.S. Department of Commerce of the transfer of the federal broadband grant to the DEO; the transfer of funds was never approved.[14]

Federal Broadband Initiatives

Federal funding for broadband comes from a variety of sources, for example:[15]

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[7] Section 364.0135(3), F.S.
[8] U.S. Department of Commerce, National Telecommunications and Information Administration, *State Broadband Initiative*, https://www2.ntia.doc.gov/SBDD (last visited Feb. 1, 2020).
[9] Section 288.0655(2)(b), F.S.
[10] *See* s. 288.0655, F.S. *See also*, Florida Department of Economic Opportunity, *Rural Infrastructure Fund*, http://floridajobs.org/community-planning-and-development/rural-community-programs/rural-infrastructure-fund (last visited Feb. 1, 2020); Florida Department of Economic Opportunity, *2019 Incentives Report* at 17-18, http://www.floridajobs.org/docs/default-source/reports-and-legislation/2018-2019-annual-incentives-report---final.pdf?sfvrsn=c2a340b0_2 (last visited Feb. 1, 2020).
[11] Section 338.2278(1), F.S. See also Florida Department of Transportation, *M-CORES*, https://floridamcores.com/ (last visited Feb. 1, 2020).
[12] Section 339.0801(2)(b), F.S.
[13] Chapter 2012-131, Laws of Fla.
[14] *See* footnote 1 of s. 364.0135, F.S.
[15] American Broadband Initiative, *supra* note 4, at 25-26.

- The Federal Communication Commission's (FCC) Universal Service Fund subsidizes telephone service (including broadband Internet access) to low-income households, high-cost areas, rural healthcare providers, and eligible schools and libraries;
- The U.S. Department of Housing and Urban Development[16] and Department of Education[17] offer block grants to support broadband infrastructure; and
- The U.S. Department of Agriculture (USDA) offers loans and grants to facilitate broadband deployment in rural areas that do not have sufficient access[18] to broadband through the ReConnect Program.[19]

The ReConnect Program is currently the most significant federal grant program that supports broadband infrastructure, with up to $600 million in Congressional budget authority for each round of grants. Applicants for a grant or loan/grant combination under the ReConnect Program are required to submit a scoring sheet by which the USDA may analyze nine separate evaluation criteria to score the applicant. One of the criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.[20] The USDA has been reviewing applications from its first round of funding from 2019 and has awarded nearly $500 million to projects in 27 states; however, no project in Florida has been approved at this time. The USDA's second round of funding closes March 16, 2020.[21]

Since 2000, the FCC has collected data regarding the deployment of advanced telecommunications capability to Americans by requiring telecommunications services, especially broadband Internet, providers to report the availability of their services at a census block level.[22] The FCC uses this data to annually report on broadband availability, update service policies and monitor whether the goal of nationwide service is achieved, and maintain coverage maps[23] to inform the industry and the public of the availability of broadband Internet in their

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[16] U.S. Department of Housing and Urban Development, *State CDBG Program Broadband Infrastructure FAQs* (Jan. 7, 2016), https://files.hudexchange.info/resources/documents/State-CDBG-Program-Broadband-Infrastructure-FAQs.pdf (last visited Feb. 1, 2020).
[17] U.S. Department of Education, Rural and Low-Income School Program, https://www2.ed.gov/programs/reaprlisp/index.html (last visited Feb. 1, 2020). See also, Broadband USA, *Funding Guide - Department of Education - Rural and Low-Income School Program*, https://broadbandusa.ntia.doc.gov/funding-program-details-funding-guide/department-education-rural-low-income-school-program-0 (last visited Feb. 1, 2020).
[18] Sufficient access is defined as 10 megabits per second downstream and 1 megabit per second upstream. Pub. Law No. 115-334, 115th Cong. (Dec. 20, 2018) Agriculture Improvement Act of 2018. *See also*, Congressional Research Service, *The ReConnect Broadband Pilot Program* (Jul. 3, 2019), https://www.usda.gov/reconnect/awardees (last visited Feb. 1, 2020).
[19] U.S. Department of Agriculture, *ReConnect Loan and Grant Program: About*, https://www.usda.gov/reconnect/program-overview (last visited Feb. 1, 2020).
[20] U.S. Department of Agriculture, *ReConnect Program Evaluation Criteria*, https://www.usda.gov/reconnect/evaluation-criteria (last visited Feb. 1, 2020).
[21] U.S. Department of Agriculture, *ReConnect Program Awardees*, https://www.usda.gov/reconnect/awardees (last visited Feb. 1, 2020). *See also* note 19 *supra*.
[22] *See* 47 U.S.C. s. 1302(b) (Section 706 of the Telecommunications Act of 1996 requires the FCC to determine and report annually on "whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion."). Federal Communications Commission, *Report and Order and Second Further Notice of Proposed Rulemaking*, WC Docket Nos. 19-195, 11-10, at 3-4 (filed Aug. 6, 2019), https://www.fcc.gov/document/fcc-improves-broadband-mapping-0 (last visited Feb. 1, 2020).
[23] *See* FCC, *Fixed Broadband Deployment*, https://broadbandmap.fcc.gov/#/ (last visited Feb. 1, 2020).

areas.[24] In 2019, the FCC amended its reporting requirements to collect geospatial broadband coverage information to allow the agency to better identify gaps in broadband coverage.[25]

II. Effect of Proposed Changes:

Section 1 amends s. 339.0801(2)(b), F.S., to authorize the FDOT to use up to $5 million per year of the annual allocation from the State Transportation Trust Fund for the M-CORES program to develop broadband infrastructure within or adjacent to a multiuse corridor. Priority consideration must be given to broadband infrastructure projects that are located in a rural area of opportunity (RAO)[26] that is adjacent to a multiuse corridor. The currently designated RAOs are:[27]

- The Northwest RAO, comprised of Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the part of Walton County north of the Intracoastal Waterway, including the cities of DeFuniak Springs, Freeport, and Paxton;
- The South Central RAO, comprised of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, the cities of Pahokee, Belle Glade, and South Bay in Palm Beach County, and the city of Immokalee in Collier County; and
- The North Central RAO, comprised of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union Counties.

Section 2 amends s. 364.0135, F.S., and transfers state broadband policy from the DMS to the DEO. The bill creates the Florida Office of Broadband (office) within the DEO's Division of Community Development. The office must develop, market, and promote broadband Internet services to Florida especially in Florida's rural, unserved, or underserved communities, and is directed to:

- Create a strategic plan to increase the use of broadband Internet service in Florida. The plan must include a process to review and verify public input on broadband internet transmission speeds and availability;
- Map Florida's broadband transmission speeds and availability;
- Build and facilitate local technology planning teams, especially with community members from the areas of education, healthcare, business, tourism, agriculture, economic development, and local government;
- Encourage public use of Internet service through broadband grant programs; and
- Monitor, participate in, and provide input on FCC proceedings that are related to the geographic availability and deployment of broadband Internet in Florida.

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[24] Federal Communications Commission, *Report and Order and Second Further Notice of Proposed Rulemaking*, WC Docket Nos. 19-195, 11-10, at 3-4 (filed Aug. 6, 2019), https://www.fcc.gov/document/fcc-improves-broadband-mapping-0 (last visited Feb. 1, 2020).

[25] FCC, *FCC Establishes New Digital Opportunity Data Collection* (Aug 1, 2019), https://www.fcc.gov/document/fcc-improves-broadband-mapping (last visited Feb. 1, 2020).

[26] Section 288.0656, F.S., defines a rural area of opportunity (RAO) as a rural community or region composed of rural communities that have been adversely affected by extraordinary economic events or natural disasters. RAO's are eligible for assistance and other support through the Rural Economic Development Initiative, administered by the DEO.

[27] Florida Department of Economic Opportunity, *Rural Areas of Opportunity*, http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Feb. 1, 2020).

The bill defines "underserved" as a geographic area of Florida in which there is no broadband Internet service with a capacity for transmission at a consistent speed of at least 10 megabits per second downstream and at least 1 megabit per second upstream. This definition is the same as the federal definition for "sufficient access" as used for the USDA ReConnect Program.

This section also transfers the authority to apply for and accept federal funds, to enter into contracts, and to establish committees or workgroups for the purposes of broadband expansion and implementation to the DEO. Unlike the current authority of the DMS, this bill does not permit the DEO to accept private funds to coordinate and implement broadband in Florida.

Section 3 repeals ch. 2012-131, Laws of Florida, which attempted to transfer state oversight of broadband Internet policy from the DMS to the DEM and never took effect as a result of the terms of the conditional effective date that were never met.

Section 4 provides this bill is effective July 1, 2020.

III. 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.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The use of funds through the M-CORES program to build broadband infrastructure in rural areas may drive a greater level of broadband development to those areas. This may result in a positive impact to both individuals and businesses in impacted areas.

The American Broadband Initiative cites coordination between state and federal broadband programs as a challenge to further broadband development and states that "[f]ederal program officers would benefit from local insights provided by State leaders."[28] The re-institution of a Florida Broadband Office may facilitate better coordination and create additional opportunities for eligible applicants to receive federal funding for broadband development.

C. Government Sector Impact:

The DEO stated that it will reassign existing staff and resources to implement to provisions of the bill.[29]

The DMS indicated that the bill will have no impact on the department.[30]

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 339.0801 and 364.0135

This bill repeals chapter 2012-131, Laws of Florida.

VIII. Additional Information:

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

CS/CS by Appropriations on February 20, 2020:
The committee substitute requires the DEO's strategic plan to increase broadband service in Florida to include a process to review and verify public input on broadband internet transmission speeds and availability.

[28] American Broadband Initiative, *supra* note 4 at 27-28.
[29] *See* the DEO's 2020 Agency Legislative Bill Analysis for SB 1166 (Dec. 12, 2019) (on file in the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).
[30] *See* the DMS's 2020 Agency Legislative Bill Analysis for SB 1166 (Jan. 21, 2020) (on file in the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

CS by Commerce and Tourism on January 27, 2020:

- Defines the term "underserved" to mean a geographic area in which there is no broadband Internet service at a consistent speed of at least 10 megabits per second downstream and at least 1 megabits per second upstream; and
- Extends the office's duties to include monitoring, participating in, and providing input on FCC proceedings regarding geographic availability and deployment of broadband Internet service.

B. Amendments:

None.

796936

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Albritton) recommended the following:

Senate Amendment

Delete line 100
and insert:
state. The plan must include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout the state.

By the Committee on Commerce and Tourism; and Senator Albritton

577-02734-20 20201166c1

A bill to be entitled

An act relating to broadband Internet service; amending s. 339.0801, F.S.; authorizing certain funds within the State Transportation Trust Fund to be used for certain broadband infrastructure projects within or adjacent to multiuse corridors; requiring the Department of Transportation to give priority to certain projects; amending s. 364.0135, F.S.; defining terms; designating the Department of Economic Opportunity, and not the Department of Management Services, as the lead state entity to facilitate the expansion of broadband Internet service in this state; requiring the department to work collaboratively with certain entities; creating the Florida Office of Broadband within the Division of Community Development within the Department of Economic Opportunity; providing the purpose and duties of the office; making technical changes; repealing chapter 2012-131, Laws of Florida, relating to broadband Internet service; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 339.0801, Florida Statutes, is amended to read:

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

577-02734-20 20201166c1

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

(2)

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

Section 2. Section 364.0135, Florida Statutes, is amended to read:

364.0135 Promotion of broadband adoption; Florida Office of Broadband.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that the sustainable adoption of broadband Internet service is critical to the economic and business development of this ~~the~~ state and is beneficial for libraries, schools, colleges and universities, health care providers, and community organizations.

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

(a) "Department" means the Department of Economic Opportunity.

(b) "Office" means the Florida Office of Broadband.

(c) "Sustainable adoption" means the ability for communications service providers to offer broadband services in all areas of this ~~the~~ state by encouraging adoption and use ~~utilization~~ levels that allow for these services to be offered in the free market absent the need for governmental subsidy.

(d) "Underserved" means a geographic area of this state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 10 megabits per second downstream and at least 1 megabit per second upstream.

(3) ~~(2)~~ STATE ENTITY.—The department is designated as the lead state entity to facilitate the expansion of broadband Internet service in this state. The department shall ~~of Management Services is authorized to~~ work collaboratively with private businesses~~,~~ and ~~to~~ receive staffing support and other resources from~~,~~ Enterprise Florida, Inc., state agencies, local governments, ~~private businesses,~~ and community organizations.

(4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of Broadband is created within the Division of Community Development within the department for the purpose of developing, marketing, and promoting broadband Internet services to this state. The office, in the performance of its duties, shall do all of the following ~~to~~:

(a) ~~Monitor the adoption of broadband Internet service in collaboration with communications service providers, including, but not limited to, wireless and wireline Internet service providers, to develop geographical information system maps at the census tract level that will:~~

~~1. Identify geographic gaps in broadband services,~~

~~including areas unserved by any broadband provider and areas served by a single broadband provider;~~

~~2. Identify the download and upload transmission speeds made available to businesses and individuals in the state, at the census tract level of detail, using data rate benchmarks for broadband service used by the Federal Communications Commission to reflect different speed tiers; and~~

~~3. Provide a baseline assessment of statewide broadband deployment in terms of percentage of households with broadband availability.~~

~~(b)~~ Create a strategic plan that has goals and strategies for increasing the use of broadband Internet service in this ~~the~~ state.

(b) ~~(c)~~ Build and facilitate local technology planning teams or partnerships with members representing cross-sections of the community, which may include, but are not limited to, representatives from the following organizations and industries: libraries, K-12 education, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture.

(c) ~~(d)~~ Encourage the use of broadband Internet service, especially in the rural, unserved, or ~~and~~ underserved communities of this ~~the~~ state through grant programs having effective strategies to facilitate the statewide deployment of broadband Internet service. For any grants to be awarded, priority must be given to projects that:

1. Provide access to broadband education, awareness, training, access, equipment, and support to libraries, schools,

colleges and universities, health care providers, and community support organizations.

2. Encourage the sustainable adoption of broadband in primarily unserved and underserved areas by removing barriers to entry.

3. Work toward encouraging investments in establishing affordable and sustainable broadband Internet service in unserved and underserved areas of this ~~the~~ state.

4. Facilitate the development of applications, programs, and services, including, but not limited to, telework, telemedicine, and e-learning to increase the usage of, and demand for, broadband Internet service in this ~~the~~ state.

(d) Monitor, participate in, and provide input on proceedings of the Federal Communications Commission and other federal agencies which are related to the geographic availability and deployment of broadband Internet service in this state as necessary to ensure that the information is accurately presented and that rural, unserved, and underserved areas of this state are best positioned to benefit from federal and state broadband deployment programs.

(5)~~(3)~~ ADMINISTRATION.—The department may:

(a) Apply for and accept federal funds for purposes of this section~~, as well as gifts and donations from individuals, foundations, and private organizations~~.

(b)~~(4) The department may~~ Enter into contracts necessary or useful to carry out the purposes of this section.

(c)~~(5) The department may~~ Establish any committee or workgroup to administer and carry out the purposes of this section.

Section 3. Chapter 2012-131, Laws of Florida, is repealed.

Section 4. This act shall take effect July 1, 2020.

The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 14, 2020

I respectfully request that **1166**, relating to Broadband Internet Service, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Ben Albritton
Florida Senate, District 26

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.20.2020
Meeting Date

1166
Bill Number (if applicable)

Topic BROADBAND

Amendment Barcode (if applicable)

Name KARIS LOCKHART

Job Title DEPT. DIR OF LEG. AFFAIRS

Address 107 E MADISON ST
Street
TALLAHASSEE FL 32399
City *State* *Zip*

Phone 850 245 7145

Email karis.lockhart@deo.myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Department of Economic Opportunity

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 1324
INTRODUCER:	Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senator Simpson
SUBJECT:	Child Welfare
DATE:	February 24, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	**Fav/CS**
2.	Sneed	Kidd	AHS	**Recommend: Favorable**
3.	Sneed	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1324 makes a number of changes to the laws relating to child welfare designed to increase the accountability of parents with children in out-of-home care, encourage better communication between caregivers and birth parents, and shorten the length of time children spend in out-of-home care. Specifically, the bill:

- Requires circuit and county court judges for dependency cases to receive education relating to early childhood development, which includes the value of strong parent-child relationships, secure attachments, stable placements and the impact of trauma on children in out-of-home care.
- Codifies the creation and establishment of early childhood court (ECC) programs that serve the needs of children (typically under the age of three) in dependency court by using specialized dockets, multidisciplinary teams, community coordinators, and evidence-based treatment that supports the needs of the parent and child in a nonadversarial manner.
- Requires that background screenings for prospective foster parents be completed within 14 business days after criminal history results are received by the Department of Children and Families (DCF), unless additional information is needed to complete processing.
- Requires the DCF to notify the court of any report to the central abuse hotline that involves a child under court jurisdiction.
- Allows the DCF to file a shelter or dependency petition without the need for a new child protective investigation or the concurrence of the child protective investigator if the department determines that the safety plan is no longer sufficient to keep the child safe or

that the parent or caregiver has not sufficiently increased his or her level of protective capacities to ensure the child's safety.
- Provides factors for the court to consider when determining whether a change of legal custody or placement is in the child's best interest.
- Provides circumstances under which a court may remove a child and place him or her in out-of-home care if a child was placed in the child's own home with an in-home safety plan or was reunited with a parent with an in home safety plan.
- Provides legislative findings and intent and codifies provisions and responsibilities for working partnerships between foster parents and birth parents in order to ensure that children in out-of-home care achieve permanency as soon as possible, to reduce the likelihood they will re-enter care, and to ensure that families are prepared to resume care of their children.
- Provides a process for a community-based care lead agency (CBC) to demonstrate the need to directly provide more than 35 percent of all child welfare services in the lead agency's service area.
- Specifies timelines and steps in the process necessary for both foster parent licensing and approval of adoptive parents.
- Authorizes circuit courts to establish early childhood court (ECC) programs to serve children in dependency court. Provides components a circuit court may consider when establishing an ECC program. Authorizes ECC courts to establish community coordinator positions to coordinate programs and manage data collection between ECC court team participants.
- Directs the Office of State Courts Administrator (OSCA) to contract for an evaluation of the ECC's evidence-based treatment services and authorizes the OSCA to provide ECC court teams with training, consultation, and guidance.

The bill appropriates 21 full-time equivalent (FTE) positions with an associated salary rate of 1,322,144, and $2,198,670 in recurring funds and $51,020 in nonrecurring funds from the General Revenue Fund, in Fiscal Year 2020-2021 to the State Court System to establish and operate the ECC programs.

The bill takes effect on July 1, 2020.

II. Present Situation:

Judicial Education

The Florida Court Education Council was established in 1978 and charged with providing oversight of the development and maintenance of a comprehensive educational program for Florida judges and certain court support personnel. The Council's responsibilities include making budgetary, programmatic, and policy recommendations to the Supreme Court regarding continuing education for Florida judges and certain court professionals.

All judges new to the bench are required to complete the Florida Judicial College program during their first year of judicial service following selection to the bench. Taught by faculty chosen from among the state's most experienced trial and appellate court judges, the College's curriculum includes:
- A comprehensive orientation program in January, including an in-depth trial skills workshop, a mock trial experience and other classes.

- Intensive substantive law courses in March, incorporating education for both new trial judges and those who are switching divisions.
- A separate program designed especially for new appellate judges.
- A mentor program providing new trial court judges regular one-to-one guidance from experienced judges.[1]

All Florida county, circuit, and appellate judges and Florida supreme court justices are required to comply with the following judicial education requirements:

- Each judge and justice shall complete a minimum of 30 credit hours of approved judicial education programs every three years.
- Each judge or justice must complete four hours of training in the area of judicial ethics. Approved courses in fairness and diversity also can be used to fulfill the judicial ethics requirement.
- In addition to the 30-hour requirement, every judge new to a level of trial court must complete the Florida Judicial College program in that judge's first year of judicial service following selection to that level of court.
- Every new appellate court judge or justice must, within two years following selection to that level of court, complete an approved appellate-judge program. Every new appellate judge who has never been a trial judge or who has never attended Phase I of the Florida Judicial College as a magistrate must also attend Phase I of the Florida Judicial College in that judge's first year of judicial service following appointment.[2]

To help judges satisfy this educational requirement, Florida Judiciary Education currently presents a variety of educational programs for new judges, experienced judges, and some court staff. About 900 hours of instruction are offered each year through live presentations and distance learning formats. This education helps judges and staff to enhance their legal knowledge, administrative skills and ethical standards.

In addition, extensive information is available to judges handling dependency cases in the Dependency Benchbook. The book is a compilation of promising and science-informed practices as well as a legal resource guide. It is a comprehensive tool for judges, providing information regarding legal and non-legal considerations in dependency cases. Topics covered include the importance of a secure attachment with a primary caregiver, the advantages of stable placements and the effects of trauma on child development.[3]

Early Childhood Courts

Problem-Solving Courts

In 1989, Florida started problem-solving court initiatives by creating the first drug court in the

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[1] The Florida Courts, *Information for New Judges*, *available at*: https://www.flcourts.org/Resources-Services/Judiciary-Education/Information-for-New-Judges (Last visited December 26, 2019).
[2] Fla. R. Jud. Admin. 2.320 as amended through August 29, 2019, *available at*: https://casetext.com/rule/florida-court-rules/florida-rules-of-judicial-administration/part-iii-judicial-officers/rule-2320-continuing-judicial-education (Last visited December 26, 2019).
[3] The Florida Courts, *Dependency Benchbook*, *available at* https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Dependency/Dependency-Benchbook (Last visited December 27, 2019).

United States in Miami-Dade County. Other types of problem-solving court dockets subsequently followed using the drug court model and were implemented to assist individuals with a range of problems such as drug addiction, mental illness, domestic violence, and child abuse and neglect.[4]

Florida's problem-solving courts address the root causes of an individual's involvement with the justice system through specialized dockets, multidisciplinary teams, and a nonadversarial approach. Offering evidence-based treatment, judicial supervision, and accountability, problem-solving courts provide individualized interventions for participants, to reduce recidivism and promote confidence and satisfaction with the justice system process.[5]

Early Childhood Courts in Florida

Early childhood courts (ECC) address child welfare cases involving children typically under the age of three. ECC is considered a "problem-solving court" that is coordinated by the Office of the State Courts Administrator with a goal of improving child safety and well-being, healing trauma and repairing the parent-child relationship, expediting permanency, preventing recurrence of maltreatment, and stopping the intergenerational cycle of abuse/neglect/violence.[6]

Using the Miami Child Well-Being Court model and the National ZERO TO THREE organization's Safe Babies Court Teams approach, Florida's ECC program began a little more than four years ago.[7] Currently, there are 24 ECC programs in Florida.

The Legislature appropriated $11.3 million in the State Courts in Fiscal Year 2019-2020 for problem-solving courts, including early childhood courts. The Trial Court Budget Commission determines the allocation of those funds to the circuits.[8]

The Miami Child Well-Being Court

The development of the Miami Child Well-Being Court (CWBC) model began in the early 1990s out of an atypical collaboration that included a judge, a psychologist, and an early interventionist/education expert. The Miami CWBC model evolved over the course of more than a decade and is now widely recognized as one of the country's leading court improvement efforts, with ties to the National Council for Juvenile and Family Court Judges and Office of Juvenile Justice and Delinquency Prevention Model Courts Project.[9]

The Miami CWBC was unique due to the leadership of a judge who insisted that the court process should be informed by the science of early childhood development and who required the

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[4] The most common problem-solving courts in Florida are drug courts, mental health courts, veterans courts and early childhood courts. Florida Courts, Office of Court Improvement, Problem-Solving Courts, *available at*: https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts (last visited October 2, 2019).
[5] *Id*.
[6] Center for Prevention & Early Intervention Policy, Florida State University, Florida's Early Childhood Court Manual, April 2017, *available at*: http://cpeip.fsu.edu/babyCourt/resources/Early%20Childhood%20Court%20Manual%204172015.pdf (last visited October 2, 2019).
[7] *Id*.
[8] Chapter 2019-115, L.O.F. Specific Appropriation 3247.
[9] The Miami Child Well-Being Court Model, Essential Elements and Implementation Guidance, *available at*: http://www.floridaschildrenfirst.org/wp-content/uploads/2013/02/MiamiChild.pdf (last visited October 3, 2019).

court to engage in intensive efforts to heal the child and—if possible—the parent-child relationship. As with the problem-solving approach of drug and mental health courts, such leadership represented a paradigm shift away from the traditional adversarial culture of the court for one in which judges utilize a systems-integration approach to promote healing and recovery from trauma in maltreated young children and to break the intergenerational nature of child abuse and neglect.[10,11]

The Miami CWBC galvanized the long-term commitment and shared vision of decision-makers across the judiciary, child welfare, child mental health, and other child- and family-serving systems in Miami-Dade to create meaningful, lasting change for court involved children and their families. The Miami CWBC model is anchored by three essential principles:

- The needs of vulnerable children involved in dependency court will be best served through a problem-solving court approach led by a science informed judge. This approach is realized through a court team that is committed to collaboration in the interest of the child's safety and emotional well-being. In addition to the judge, the court team includes the attorney representing the parent, the attorney for the state, the guardian ad litem (GAL) or court-appointed special advocate, child's attorney, or both; and the child welfare caseworker.
- Young children exposed to maltreatment and other harmful experiences need evidence-based clinical intervention to restore their sense of safety and trust and ameliorate early emotional and behavioral problems. Such intervention must address the child-caregiver relationship and has the potential to catalyze the parent's insight to address the risks to the child's safety and well-being. The intervention employed in the Miami CWBC is Child-Parent Psychotherapy applied to the context of court-ordered treatment.
- The judicial decision-making process is improved when the treating clinician provides ongoing assessment of the child-parent relationship, the parent's ability to protect and care for the child, and the child's wellbeing. This is best accomplished by involving the clinician on the court team to collaborate with the other parties involved in the court proceeding. This unusual role for the clinician in the court process is actively supported by the judge.[12]

Safe Babies Court Teams

The ZERO TO THREE program was founded in 1977 as the National Center for Clinical Infant Programs by internationally recognized professionals in the fields of medicine, mental health, social science research, child development and community leadership interested in advancing the healthy development of infants, toddlers, and families. ZERO TO THREE has a history of turning the science of early development into helpful resources, practical tools and responsive policies for millions of parents, professionals, and policymakers. The organization houses a number of programs including Safe Babies Court Teams.[13]

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[10] Harvard Law School, Child Advocacy Program, The Miami Child Well Being Court Model, *available at*: http://cap.law.harvard.edu/wp-content/uploads/2015/07/22_miami-child-well-being-court-model.pdf (last visited October 3, 2019).

[11] In 1994, Dr. Joy Osofsky began developing a similar court in New Orleans, working through an "infant team" of judges, lawyers, therapists and others to provide interventions for abused and neglected babies. They had two goals: to achieve permanency more quickly, although not necessarily reunification, and to prevent further abuse and neglect.

[12] The Miami Child Well-Being Court Model, Essential Elements and Implementation Guidance, *available at*: http://www.floridaschildrenfirst.org/wp-content/uploads/2013/02/MiamiChild.pdf (last visited October 3, 2019).

[13] ZERO TO THREE, Our History, *available at*: https://www.zerotothree.org/about/our-history (last visited September 30, 2019).

In 2003, in partnership with the National Council of Juvenile and Family Court Judges, Court Teams for Maltreated Infants and Toddlers were conceptualized and in 2005, the first court teams were established in Fort Bend, Texas; Hattiesburg, Mississippi; and Des Moines, Iowa. Currently, the initiative operates in multiple sites around the country.[14]

Based on the Miami Child Well-Being Court and the New Orleans models,[15,16] the Safe Babies Court Teams Project is based on developmental science and aims to:

- Increase awareness among those who work with maltreated infants and toddlers about the negative impact of abuse and neglect on very young children; and,
- Change local systems to improve outcomes and prevent future court involvement in the lives of very young children.[17]

This approach is recognized by the California Evidence-Based Clearinghouse for Child Welfare as being highly relevant to the child welfare system and demonstrating promising research evidence.[18]

The following timeframes are based on data extracted from the Florida Dependency Court Information System (FDCIS) in December 2018, for children who were removed from their parents' care due to allegations of abandonment, abuse, or neglect. These measures compare groups of children ages 0 to 3 at the time of removal who were in the Early Childhood Court (ECC) program to children ages 0 to 3 who were not in the ECC program.[19]

Measure	# For Children not in ECC	# For Children in ECC
Median number of days from removal to reunification closure	736.2	477.1
Median number of days from removal to adoption closure	699.0	687.3
Median number of days from removal to permanent guardianship	683.3	453.1
Average time to overall permanency in days	695.0	552.9
Children in ECC had a 40% reduction in recurrence of maltreatment compared to non-ECC children		

[14] ZERO TO THREE, The Safe Babies Court Team Approach: Championing Children, Encouraging Parents, Engaging Communities, *available at*: https://www.zerotothree.org/resources/528-the-safe-babies-court-team-approach-championingchildren-encouraging-parents-engaging-communities (last visited September 30, 2019).
[15] ACES Too High, In Safe Babies Courts, 99% of kids don't suffer more abuse — but less than 1% of U.S. family courts are Safe Babies Courts. February 23, 2015, *available at*: https://acestoohigh.com/2015/02/23/in-safe-babies-courts-99-of-kids-dont-suffer-more-abuse-but-less-than-1-of-u-s-family-courts-are-safe-babies-courts/ (last visited October 1, 2019).
[16] *Id*. Safe Babies Courts differ from the other models by providing community coordinators who work with court personnel to keep the process on track.
[17] ZERO TO THREE, Safe Babies Court Teams, *available a*t: https://www.zerotothree.org/our-work/safe-babies-court-team (last visited October 1, 2019).
[18] The California Evidence-Based Clearinghouse for Child Welfare, *available at*: http://www.cebc4cw.org/program/safe-babies-court-teams-project/ (last visited September 30, 2019).
[19] Florida Courts, Office of Court Improvement, Early Childhood Courts, *available at*: https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Early-Childhood-Courts (last visited October 1, 2019).

Shortening the time children spend in out-of-home care should serve as a potential cost savings for the state due to the reduction in out-of-home care cost.

Differences between Early Childhood Courts and Regular Dependency Courts

Services	Early Childhood Court	"Regular" Dependency Court
Court hearings	Monthly hearings assess progress and solve problems quickly.	Only a 6-month judicial review.
Community Coordinator	Coordinates monthly parent team meetings to prioritize family services, integrate fast track services to expedite permanency for the child.	No coordinator. Case plans may not address real family needs. Reviewed every 6 months; not fluid to changing family needs that impact permanency. Needed services often delayed or wait listed.
Integrated Multidisciplinary Team approach	Families encouraged and supported by multidisciplinary team including court staff, community-based care case managers, attorneys, GAL staff & volunteers, and clinicians specializing in Child Parent Therapy.	No teams. Piecemeal services. Not integrated. Families struggle to get needed services timely and to complete case plan.
Visitation	Daily contact encouraged (3x week minimum) to strengthen parent child attachment & promote reunification.	Only monthly visitation required in statute.
Evidence based Clinical services	Child Parent Therapy offered to all families in ECC to heal trauma, improve parenting & optimize child/parent relationship. Clinician reports to court to inform decisions toward stable placement.	Therapies and evidence-based interventions not usually offered to children younger than age 5 and their families.
Time to permanency	Spent 112 days less in the system than non-ECC children to reach a permanent stable family (reunification or placed with relative or non-relative) in 2016.	Stayed in out-of-home care 112 days longer than ECC children in 2016.
Re-entry into child welfare	Only two ECC children re-entered the system in 2016 (3.39% compared to 3.86% for non-ECC children).	Statewide recurrence is 9.69%.

Post Disposition Change of Custody

Currently, the court may change the temporary legal custody or the conditions of protective supervision at a post disposition hearing, without the necessity of another adjudicatory hearing. The standard for changing custody of the child is in the best interest of the child. When applying this standard, the court considers the continuity of the child's placement in the same out-of-home residence as a factor when determining the best interests of the child. If the child is not placed in

foster care, then the new placement for the child must meet the home study criteria and court approval pursuant to this chapter.[20]

- In cases where the issue before the court is whether a child should be reunited with a parent, the court reviews the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the DCF will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.[21]
- In cases where the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the DCF will not be detrimental to the child, the standard is that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.[22]

Adoption Home Study and Screening

- The adoption of a child from Florida's foster care system is a process that the DCF estimates can usually be completed within nine months. The process typically includes an orientation session, an in-depth training program to help prospective parents determine if adoption is right for the family, a home study and a background check. Once the process has been completed, prospective parents are ready to be matched with a child available for adoption.[23]
- The prospective adoptive parents' initial inquiry to the department or to the community-based care lead agency (CBC) or subcontractor staff, whether written or verbal, must receive a written response or a telephone call within seven business days. Prospective adoptive parents who indicate an interest in adopting children must be referred to a department approved adoptive parent training program, as prescribed in rule 65C-13.024, F.A.C.
- An application to adopt must be made on the "Adoptive Home Application."
- An adoptive home study which includes observation, screening and evaluation of the child and adoptive applicants must be completed by a staff person with the CBC, subcontractor agency, or other licensed child-placing agency prior to the adoptive placement of the child. The aim of this evaluation is to select families who will be able to meet the physical, emotional, social, educational and financial needs of a child, while safeguarding the child from further loss and separation from siblings and significant adults. The adoptive home study is valid for 12 months from the approval date. An adoptive parent application file consists of the following documentation including, but not limited to:
    - The child's choice, if the child is developmentally able to participate in the decision. The child's consent to the adoption is required if the child is age 12 or older unless excused by the court;

[20] Section 39.522, F.S.
[21] *Id*.
[22] *Id*.
[23] Florida Department of Children and Families, "The Road to Adoption," *available at*: http://www.adoptflorida.org/roadtoadoption.shtml (last visited December 30, 2019).

- The ability and willingness of the adoptive family to adopt some or all of a sibling group, although no individual child shall be impeded or disadvantaged in receiving an adoptive family due to the inability of the adoptive family to adopt all siblings. The needs of each individual child must be considered, as well as the family's demonstrated efforts to maintain the sibling connection;
- The commitment of the applicant to value, respect, appreciate, and educate the child regarding his or her racial and ethnic heritage and to permit the child the opportunity to know and appreciate that ethnic and racial heritage;
- The family's child rearing experience;
- Marital status;
- Residence;
- Income;
- Housing;
- Health;
- Other children and household members;
- All adoptive applicants must complete the requirements for background screening as outlined in rule 65C-16.007, F.A.C. which includes abuse and neglect history checks on all adoptive applicants and other household members 12 years of age and older, pursuant to sections 39.0138 and 39.521, F.S.; and
- References.

The department approved adoptive parent training must be provided to and successfully completed by all prospective adoptive parents except licensed foster parents and relative and non-relative caregivers who previously attended the training within the last five years, as prescribed in rule 65C-13.024, F.A.C., or have the child currently placed in their home for six months or longer and been determined to understand the challenges and parenting skills needed to successfully parent the children available for adoption from foster care.

There are a number of factors that can affect the time necessary for the typical adoption home study process to be completed.

Foster Care Licensing Home Study and Background Screening

Current law provides for the establishment of licensing requirements for family foster homes, residential child-caring agencies, and child-placing agencies in order to protect the health, safety, and well-being of all children in the state who are cared for by these homes and agencies and provides procedures to determine adherence to these requirements.[24]

- Each applicant wishing to become a licensed out-of-home caregiver must complete the "Application for License to Provide Out-of-Home Care for Dependent Children." Persons living together in a caretaking role must both sign the application.
- The child-placing agency completing the Unified Home Study must, at a minimum, conduct two visits to the applicant's home, inspect the entire indoor and outdoor premises, document the conditions, and conduct face-to-face interviews with all household members. The dates, names of persons interviewed and summary of these interviews shall be documented in the Unified Home Study.

[24] Section 409.175, F.S.

- A staff person, certified pursuant to section 402.40, F.S., from the supervising agency must perform a thorough assessment of each prospective licensed out-of-home caregiver and document this assessment in the Unified Home Study section of Florida Safe Families Network (FSFN). The assessment must include an extensive and comprehensive list of information.
- The Unified Home Study must be reviewed and signed by the applicant, licensing counselor and his or her supervisor. A copy of the Unified Home Study shall be provided to the applicant. The complete application file must be submitted in accordance with the traditional or attestation model for licensure. A request for additional information shall be submitted by the Regional Licensing Authority within 10 business days of receipt of the file. A traditional licensing application file must consist of the following documentation including, but not limited to:
  - Application for license to provide out-of-home care for dependent children;
  - Unified home study;
  - Proof of income;
  - A "Partnership Plan for Children in Out-of-Home Care;"
  - Parent Preparation Pre-service Training certificate;
  - Verification of criminal history screening for applicant and all household members as specified in subsection 65C-13.023(2), F.A.C.;
  - Required references; and
  - Family documents.

A licensing specialist who has been trained by the DCF or other state entity, such as the local health department, in the areas of water supply, food holding temperature, plumbing, pest control, sewage, and garbage disposal, must complete the Foster Home Inspection Checklist, incorporated by reference in rule 65C-13.025, F.A.C.

If the application file is approved, a license must be issued to the applicant. The license must include the name and address of the caregiver, the name of the supervising agency, the licensed capacity, and the dates for which the license is valid. The DCF Regional Managing Director or designee within upper level management shall sign the license. Any limitations must be displayed on the license. The CBC or supervising agency is responsible for ensuring the license is sent to the foster parent.[25]

If the DCF determines that the application will be denied, the department must within 10 business days notify the applicant and supervising agency by certified mail, identifying the reasons for the denial of the license, the statutory authority for the denial of the license, and the applicant's right of appeal pursuant to chapter 120, F.S.[26]

Parenting Partnerships

Quality Parenting Initiative (QPI)

The Quality Parenting Initiative, a strategy of the Youth Law Center in California, is an approach to strengthening foster care, refocusing on excellent parenting for all children in the child welfare

[25] 65C-13025, F.A.C.
[26] *Id.*

system. It was launched in 2008 in Florida, and as of 2018, over 75 jurisdictions in 10 states (California, Florida, Illinois, Louisiana, Minnesota, Nevada, Ohio, Pennsylvania, Texas and Wisconsin) have adopted the QPI approach.[27]

In order to thrive, all children need excellent parenting. When parents cannot care for their children, the foster parent or other caregiver must be able to provide the loving, committed, skilled care that the child needs, in partnership with the system, to ensure that children thrive. Both the caregiver's parenting skills and the system's policies and practices should be based on child development research, information and tools. QPI is based on five core principles:

- Excellent parenting is the most important service we can provide to children in out-of-home care. Children need families, not beds;
- Child development and trauma research indicates that children need constant, consistent, effective parenting to grow and reach their full potential;
- Each community must define excellent parenting for itself;
- Policy and practice must be changed to align with that definition; and
- Participants in the system are in the best position to recommend and implement that change.[28]

QPI is an approach, a philosophy and a network of sites that share information and ideas about how to improve parenting as well as recruit and retain excellent families. It is an effort to rebrand foster care, not simply by changing a logo or an advertisement, but by changing the expectations of and support for caregivers. The child welfare system commits to fully supporting excellent parenting by putting the needs of the child first. QPI was developed to ensure that every child removed from the home because of abandonment, abuse or neglect is cared for by a foster family who provides skilled, nurturing parenting while helping the child maintain connections with his or her family.[29]

When QPI is successful, caregivers have a voice. They work as a team with agency staff, case workers, birth parents, courts, attorneys and others to protect the child's best interests. Caregivers receive the support and training they need to work with children and families, understand what is expected of them, and know what to expect from the system. Systems are then able to select and retain enough excellent caregivers to meet the needs of each child for a home and family. When these changes are accomplished, outcomes for children and their families will improve.[30]

In 2013, the legislature enacted some of the basic principles of quality parenting including, but not limited to, roles and responsibilities for caregivers, the DCF, CBC and other agency staff, transitions for children changing placements and information sharing.[31]

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[27] QPI Florida, Quality Parenting Initiative, Just in Time Training, available at: http://www.qpiflorida.org/about.html (last visited December 26, 2019).
[28] *Id*.
[29] *Id*.
[30] *Id*.
[31] Section 409.145, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 25.385, F.S., relating to standards for instruction of circuit and county court judges, to require circuit and county court judges for dependency cases to receive education relating to the value of secure attachments, stable placements, and the impact of trauma on children in out-of-home care.

Section 2 creates s. 39.01304, F.S., relating to early childhood courts, to codify the creation and establishment of early childhood court programs that serve cases involving children typically under the age of three by using specialized dockets, multidisciplinary teams, community coordinators, and evidence-based treatment that supports the needs of the parent and child in a nonadversarial manner. The bill directs the Office of the State Courts Administrator (OSCA) to contract for an evaluation of the evidence-based treatment provided through the ECC programs. Additionally, the bill allows the OSCA to provide directly, or contract for the provision of, training and technical assistance related to ECC program services, consultation and guidance for difficult cases, and ongoing training for court teams.

Section 3 amends s. 39.0138, F.S., relating to criminal history and other records checks, to require that background screenings for prospective foster parents be completed within 14 business days after criminal history results are received by the Department of Children and Families (DCF), unless additional information regarding the criminal history is required to complete processing.

Section 4 amends s. 39.301, F.S., relating to protective investigations, to require the DCF to notify the court of any report to the central abuse hotline that involves a child under court jurisdiction. The amendments to s. 39.301, F.S., also allow the department to file a shelter or dependency petition without the need for a new child protective investigation or the concurrence of the child protective investigator if the department determines that the safety plan is no longer sufficient to keep the child safe or that the parent or caregiver has not sufficiently increased his or her level of protective capacities to ensure the child's safety.

Section 5 amends s. 39.522, F.S., relating to post disposition change of custody, to provide factors for the court to consider when determining whether a change of legal custody or placement is in the child's best interest. Those factors include:

- The child's age.
- The developmental and therapeutic benefits to the child of remaining in his or her current placement or moving to the proposed placement.
- The stability and longevity of the child's current placement.
- The established bonded relationship between the child and the current or proposed caregiver.
- The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.
- The recommendation of the child's current caregiver.
- The recommendation of the child's guardian ad litem.
- The child's relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.

- The impact on visitation with siblings, parents, kin, and any other person important to the child.
- The likelihood of the child attaining permanency in the current or proposed placement.
- The likelihood the child will have to change schools or day care placement, the impact of such change on the child, and the parties' recommendations as to the timing on the change.
- The disruption in medical, mental, dental, or health care or other treatment that will be caused by the move.
- The impact on activities that are important to the child.
- The likelihood the move will impact the child's future access to education, Medicaid, and independent living benefits.
- Any other relevant factors.

The amendments to s. 39.522, F.S., also provide circumstances under which a court may remove a child and place a child in out-of-home care if such child was placed in his or her own home with an in-home safety plan or was reunited with a parent with an in-home safety plan. Those circumstances include:

- The child is abused, neglected, or abandoned by the parent or caregiver, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment.
- The parent or caregiver has materially violated a condition of placement imposed by the court, including, but not limited to, not complying with the in-home safety plan or case plan.
- The parent or caregiver is unlikely within a reasonable amount of time to achieve the full protective capacities needed to keep the child safe without an in-home safety plan.

If a child meets the above criteria for removal and placement in out-of-home care, the court must consider all of the following in making its determination to remove the child and place the child in out-of-home care:

- The circumstances that caused the child's dependency and other identified issues.
- The length of time the child has been placed in the home with an in-home safety plan.
- The parent's or caregiver's current level of protective capacities.
- The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home, based on the length of time the child has been placed in the home.
- The compliance of all parties with any case plan, safety plan or court order.
- The preference of the child.
- The likely placement for the child.
- The impact on the child if he or she has to change schools or day care.
- The impact due to disruption in health care treatment.
- The impact on visitation with siblings, kin, and any other person important to the child.
- The impact on activities that are important to the child.

Section 6 amends s. 39.6011, F.S., relating to case plan development, to include in provisions required in a case plan the responsibility of the parents, caregivers, and caseworkers to work together to successfully implement the case plan. The case plan must specify how the case manager will assist the parents and caregivers in developing a productive relationship, including meaningful communication and mutual support.

Section 7 amends s. 39.701, F.S., relating to judicial reviews, to require the court to retain jurisdiction over a child placed in a home with a parent or caregiver with an in-home safety plan and update language related to service providers. The bill also requires the case plan assessment made before every judicial review to include a statement related to the working relationship between the parents of a child and the caregivers.

Section 8 amends s. 63.092, F.S., relating to preliminary home studies, to require that preliminary home studies for identified prospective adoptive minors that are in the custody of the DCF be completed within 30 days of initiation.

Section 9 creates s. 63.093, F.S., relating to the adoption of a child from the child welfare system to specify the requirements in the process and clarifies that the requirements do no pertain to private adoptions and interventions.

Section 10 creates s. 409.1415, F.S., relating to parenting partnerships, to provide legislative findings and intent and codify provisions and responsibilities for working partnerships between caregivers and birth parents in order to ensure that children in out-of-home care achieve permanency as soon as possible rather than two weeks, to reduce the likelihood they will re-enter care and to ensure that families are prepared to resume care of their children. The bill requires caregivers of adolescents ages 13 to 17 to ensure the adolescent learns independent living skills and is aware of the requirements and benefits of the Road-to-Independence Program. The bill provides DCF with rulemaking authority to administer this section.

Section 11 amends s. 409.145, F.S., relating to care of children and quality parenting, to remove similar provisions being relocated to newly created s. 409.1415, F.S.

Section 12 amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies, to require that a licensing study of a family foster home must be completed by the DCF or an authorized licensed child-placing agency within 10 business days of initiation. It also sets timelines and requirements for the entire licensure process.

Section 13 amends s. 409.988, F.S., relating to duties of the CBCs, to provide a process for a CBC to demonstrate the need to provide more than 35 percent of all child welfare services in the CBC's service area. Currently, a CBC is prohibited from directly providing more than 35 percent of all child welfare services in the lead agency's service area.

Section 14 amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, to conform to changes made by the act.

Section 15 amends s. 39.6225, F.S., relating to the Guardianship Assistance Program, to conform to changes made by the act.

Section 16 amends s. 393.065, F.S., relating to application and eligibility determination for developmental disability services, to conform to changes made by the act.

Section 17 amends s. 409.1451, F.S., relating to independent living services, to conform to changes made by the act.

Section 18 appropriates 21 full-time equivalent (FTE) positions with an associated salary rate of 1,322,144, and $2,198,670 in recurring funds and $51,020 in nonrecurring funds from the General Revenue Fund, in Fiscal Year 2020-2021 to the State Court System to establish and operate the ECC programs.

Section 19 provides an effective date of July 1, 2020.

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:

CS/CS/SB 1324 provides funding to the State Court System to establish Community Coordinators in the circuit courts that operate ECC programs. The bill requires ongoing training for judges, magistrates, court staff, and other ECC team participants. In addition, the bill requires OSCA to contract for an evaluation of ECC programs, and to provide the

ECC court teams with training, technical assistance, and consultation services. The costs of the bill are as follows:[32]

Program and Staffing Requirements	Number of FTE	Recurring Costs	Nonrecurring Costs
OSCA statewide training specialist	1	$97,502	$3,940
State courts community coordinators	20	1,865,048	47,080
Statewide training for court judges, magistrates, court staff, and other ECC team participants		100,000	
Technical assistance and consultation services; ECC program evaluation		136,120	
Total FTE/Costs for State Courts	**21**	**$2,198,670**	**$51,020**

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 25.385, 39.0138, 39.301, 39.302, 39.522, 39.6011, 39.6225, 39.701, 63.092, 393.065, 409.145, 409.1451, 409.175, and 409.988.

This bill creates the following sections of the Florida Statutes: 39.01304, 63.093, and 409.1415.

IX. Additional Information:

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

CS/CS by Appropriations on February 20, 2020:
The committee substitute:

- Requires the OSCA to contract for an evaluation of ECC programs to ensure the quality, accountability, and fidelity of the programs' evidence-based treatment.
- Authorizes the OSCA to provide, or contract for the provision of, training and technical assistance for ECC program services, consultation and guidance for difficult ECC cases, and ongoing training for court teams.
- Provides additional factors for the dependency court to consider when determining whether a change of legal custody or placement is in the child's best interest. The factors include:

[32] Office of the State Courts Administrator, *2020 Judicial Impact Statement, SB 1324* (January 14, 2020).

- The impact on visitation with siblings, parents, kin, and any other person important to the child.
- The likelihood the child will have to change schools or day care placement, the impact of such change on the child, and the parties' recommendations as to the timing on the change.
- The disruption in medical, mental, dental, or health care or other treatment that will be caused by the move.
- The impact on activities that are important to the child.
- The likelihood the move will impact the child's future access to education, Medicaid, and independent living benefits.

- Provides additional factors the dependency court must consider in making its determination to remove the child and place the child in out-of-home care. The factors include:
  - The compliance of all parties with any case plan, safety plan or court order.
  - The preference of the child.
  - The likely placement for the child.
  - The impact on the child if he or she has to change schools or day care.
  - The impact due to disruption in health care treatment.
  - The impact on visitation with siblings, kin, and other persons important to the child.
  - The impact on activities that are important to the child.
- Allows the child, if appropriate, to participate in developing his or her case plan.
- Requires caregivers of adolescents ages 13 to 17 to ensure the adolescent learns independent living skills and is aware of the requirements and benefits of the Road-to-Independence Program.
- Authorizes positions and an appropriation to the State Court System to carry out the establishment and operation of the ECC programs.
- Makes conforming and technical changes.

CS by Children, Families, and Elder Affairs on January 15, 2020:

- Makes changes to provisions relating to the timeframes relating to the completion of background screenings and home or licensing studies to reflect the steps in the approval of adoptive parents and the licensure of foster homes.

B. Amendments:

None.

336202

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2020	.	
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The Committee on Appropriations (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 25.385, Florida Statutes, is amended to read:

25.385 Standards for instruction of circuit and county court judges ~~in handling domestic violence cases~~.—

(1) The Florida Court Educational Council shall establish standards for instruction of circuit and county court judges who

have responsibility for domestic violence cases, and the council shall provide such instruction on a periodic and timely basis.

~~(2)~~ As used in this subsection, ~~section:~~

~~(a)~~ the term "domestic violence" has the meaning set forth in s. 741.28.

~~(b) "Family or household member" has the meaning set forth in s. 741.28.~~

(2) The Florida Court Educational Council shall establish standards for instruction of circuit and county court judges who have responsibility for dependency cases regarding the benefits of a secure attachment with a primary caregiver, the importance of a stable placement, and the impact of trauma on child development. The council shall provide such instruction to the circuit and county court judges handling dependency cases on a periodic and timely basis.

Section 2. Section 39.01304, Florida Statutes, is created to read:

39.01304 Early childhood court programs.—

(1) A circuit court may create an early childhood court program to serve the needs of infants and toddlers in dependency court. If a circuit court creates an early childhood court, it may consider all of the following components:

(a) The court supporting the therapeutic needs of the parent and child in a nonadversarial manner.

(b) A multidisciplinary team made up of key community stakeholders to work with the court to restructure the way the community responds to the needs of maltreated children.

(c) A community coordinator to facilitate services and resources for families, serve as a liaison between a

multidisciplinary team and the judiciary, and manage data collection for program evaluation and accountability. The Office of the State Courts Administrator may coordinate with each participating circuit court to fill a community coordinator position for the circuit's early childhood court program.

(d) A continuum of mental health services which includes those that support the parent-child relationship and are appropriate for children and family served.

(2) The Office of State Courts Administrator shall contract for an evaluation of the early childhood programs to ensure the quality, accountability, and fidelity of the programs' evidence-based treatment. The Office of State Courts Administrator may provide, or contract for the provision of, training and technical assistance related to program services, consultation and guidance for difficult cases, and ongoing training for court teams.

Section 3. Subsection (1) of section 39.0138, Florida Statutes, is amended to read

39.0138 Criminal history and other records checks; limit on placement of a child.—

(1) The department shall conduct a records check through the State Automated Child Welfare Information System (SACWIS) and a local and statewide criminal history records check on all persons, including parents, being considered by the department for placement of a child under this chapter, including all nonrelative placement decisions, and all members of the household, 12 years of age and older, of the person being considered. For purposes of this section, a criminal history records check may include, but is not limited to, submission of

fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information, and local criminal records checks through local law enforcement agencies of all household members 18 years of age and older and other visitors to the home. Background screenings must be completed within 14 business days after the department receives the criminal history results, unless additional information regarding the criminal history is required to complete processing. An out-of-state criminal history records check must be initiated for any person 18 years of age or older who resided in another state if that state allows the release of such records. The department shall establish by rule standards for evaluating any information contained in the automated system relating to a person who must be screened for purposes of making a placement decision.

Section 4. Subsection (1) and paragraph (a) of subsection (9) of section 39.301, Florida Statutes, are amended to read:

39.301 Initiation of protective investigations.—

(1)(a) Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department’s designated district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not

requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification, the central abuse hotline shall also provide information to district staff on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(b) The department shall promptly notify the court of any report to the central abuse hotline that is accepted for a protective investigation and involves a child over whom the court has jurisdiction.

(9)(a) For each report received from the central abuse hotline and accepted for investigation, the department or the sheriff providing child protective investigative services under s. 39.3065, shall perform the following child protective investigation activities to determine child safety:

1. Conduct a review of all relevant, available information specific to the child and family and alleged maltreatment; family child welfare history; local, state, and federal criminal records checks; and requests for law enforcement assistance provided by the abuse hotline. Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur with law enforcement, the Child Protection Team, a domestic violence shelter or advocate, or a substance abuse or mental health professional. Such consultations should include discussion as to whether a joint response is necessary and feasible. A determination shall be made as to whether the person

making the report should be contacted before the face-to-face interviews with the child and family members.

2. Conduct face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or caregivers.

3. Assess the child's residence, including a determination of the composition of the family and household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

4. Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

5. Complete assessment of immediate child safety for each child based on available records, interviews, and observations with all persons named in subparagraph 2. and appropriate collateral contacts, which may include other professionals. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely

for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and may not be further disseminated or used for any other purpose.

6. Document the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument. If present or impending danger is identified, the child protective investigator must implement a safety plan or take the child into custody. If present danger is identified and the child is not removed, the child protective investigator shall create and implement a safety plan before leaving the home or the location where there is present danger. If impending danger is identified, the child protective investigator shall create and implement a safety plan as soon as necessary to protect the safety of the child. The child protective investigator may modify the safety plan if he or she identifies additional impending danger.

a. If the child protective investigator implements a safety plan, the plan must be specific, sufficient, feasible, and sustainable in response to the realities of the present or impending danger. A safety plan may be an in-home plan or an out-of-home plan, or a combination of both. A safety plan may include tasks or responsibilities for a parent, caregiver, or legal custodian. However, a safety plan may not rely on promissory commitments by the parent, caregiver, or legal custodian who is currently not able to protect the child or on services that are not available or will not result in the safety

of the child. A safety plan may not be implemented if for any reason the parents, guardian, or legal custodian lacks the capacity or ability to comply with the plan. If the department is not able to develop a plan that is specific, sufficient, feasible, and sustainable, the department shall file a shelter petition. A child protective investigator shall implement separate safety plans for the perpetrator of domestic violence, if the investigator, using reasonable efforts, can locate the perpetrator to implement a safety plan, and for the parent who is a victim of domestic violence as defined in s. 741.28. Reasonable efforts to locate a perpetrator include, but are not limited to, a diligent search pursuant to the same requirements as in s. 39.503. If the perpetrator of domestic violence is not the parent, guardian, or legal custodian of any child in the home and if the department does not intend to file a shelter petition or dependency petition that will assert allegations against the perpetrator as a parent of a child in the home, the child protective investigator shall seek issuance of an injunction authorized by s. 39.504 to implement a safety plan for the perpetrator and impose any other conditions to protect the child. The safety plan for the parent who is a victim of domestic violence may not be shared with the perpetrator. If any party to a safety plan fails to comply with the safety plan resulting in the child being unsafe, the department shall file a shelter petition.

b. The child protective investigator shall collaborate with the community-based care lead agency in the development of the safety plan as necessary to ensure that the safety plan is specific, sufficient, feasible, and sustainable. The child

protective investigator shall identify services necessary for the successful implementation of the safety plan. The child protective investigator and the community-based care lead agency shall mobilize service resources to assist all parties in complying with the safety plan. The community-based care lead agency shall prioritize safety plan services to families who have multiple risk factors, including, but not limited to, two or more of the following:

(I) The parent or legal custodian is of young age;

(II) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has a history of substance abuse, mental illness, or domestic violence;

(III) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has been previously found to have physically or sexually abused a child;

(IV) The parent or legal custodian or an adult currently living in or frequently visiting the home has been the subject of multiple allegations by reputable reports of abuse or neglect;

(V) The child is physically or developmentally disabled; or

(VI) The child is 3 years of age or younger.

c. The child protective investigator shall monitor the implementation of the plan to ensure the child's safety until the case is transferred to the lead agency at which time the lead agency shall monitor the implementation.

d. The department may file a petition for shelter or dependency without a new child protective investigation or the concurrence of the child protective investigator if the child is unsafe but for the use of a safety plan and the parent or

caregiver has not sufficiently increased protective capacities within 90 days after the transfer of the safety plan to the lead agency.

Section 5. Subsection (1) of section 39.522, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

39.522 Postdisposition change of custody.—The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing.

(1)(a) At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other interested person, upon the filing of a motion alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interests ~~interest~~ of the child. When determining whether a change of legal custody or placement is in ~~applying this standard, the court shall consider the continuity of the child's placement in the same out-of-home~~

~~residence as a factor when determining~~ the best interests of the child, the court shall consider:

1. The child's age.

2. The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.

3. The stability and longevity of the child's current placement.

4. The established bonded relationship between the child and the current or proposed caregiver.

5. The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.

6. The recommendation of the child's current caregiver.

7. The recommendation of the child's guardian ad litem, if one has been appointed.

8. The child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.

9. The impact on visitation with siblings, parents, kin, and any other person important to the child.

10. The likelihood of the child attaining permanency in the current or proposed placement.

11. The likelihood the child will have to change schools or day care placement, he impact of such change on the child, and the parties' recommendations as to the timing on the change.

12. The disruption in medical, mental, dental, or health care or other treatment that will be caused by the move.

13. The impact on activities that are important to the

child.

14. The likelihood the move will impact on the child's future access to education, Medicaid, and independent living benefits.

15. Any other relevant factors.

(b) If the child is not placed in foster care, ~~then~~ the new placement for the child must meet the home study criteria and court approval under ~~pursuant to~~ this chapter.

(4)(a) The court or any party to the case may file a petition to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan if:

1. The child has again been abused, neglected, or abandoned by the parent or caregiver, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment that has reoccurred; or

2. The parent or caregiver has materially violated a condition of placement imposed by the court, including, but not limited to, not complying with the in-home safety plan or case plan.

(b) If a child meets the criteria in paragraph (a) to be removed and placed in out-of-home care, the court must consider, at a minimum, the following in making its determination to remove the child and place the child in out-of-home care:

1. The circumstances that caused the child's dependency and other subsequently identified issues.

2. The length of time the child has been placed in the home with an in-home safety plan.

3. The parent's or caregiver's current level of protective capacities.

4. The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.

5. The compliance of all parties with any case plan, safety plan or court order.

6. The preference of the child.

7. The likely placement for the child.

8. Whether the child will have to change schools or day care placement. The impact of such change on the child.

9. The disruption in medical, mental, dental, health care or other treatment that will be caused by the removal.

10. The impact on visitation with siblings, kin and any other person important to the child.

11. The impact on activities that are important to the child.

(c) The court shall evaluate the child's permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child.

Section 6. Subsection (5) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(5) The case plan must describe all of the following:

(a) The role of the foster parents or caregivers ~~legal custodians~~ when developing the services that are to be provided to the child, foster parents, or caregivers. ~~legal custodians;~~

(b) The responsibilities of the parents, caregivers and

caseworkers to work together when safe to do so, including:

1. How parents and caregivers will work together to successfully to implement the case plan.

2. How the case manager will assist the parents and caregivers in developing a productive relationship that includes meaningful communication and mutual support.

3. How the parents or caregivers are to notify the court or the case manager if ineffective communication takes place that negatively impacts the child.

(c) ~~(b)~~ The responsibility of the case manager to forward a relative's request to receive notification of all proceedings and hearings submitted under ~~pursuant to~~ s. 39.301(14)(b) to the attorney for the department.~~;~~

(d) ~~(c)~~ The minimum number of face-to-face meetings to be held each month between the parents and the case worker ~~department's family services counselors~~ to review the progress of the plan and services to the child, to eliminate barriers to progress, and to resolve conflicts or disagreements between parents and caregivers, service providers, or any other professional assisting the parents in the completion of the case plan.~~; and~~

(e) ~~(d)~~ The parent's responsibility for financial support of the child, including, but not limited to, health insurance and child support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support shall be made independently of any determination of indigency under s. 39.013.

Section 7. Paragraph (b) of subsection (1) and paragraphs (a) and (c) of subsection (2) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(1) GENERAL PROVISIONS.—

(b)1. The court shall retain jurisdiction over a child returned to his or her parents for a minimum period of 6 months following the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem, if one has been appointed, and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's jurisdiction shall continue or be terminated.

2. Notwithstanding subparagraph 1., the court must retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such safety plan remains necessary for the child to reside safely in the home.

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(a) *Social study report for judicial review.*—Before every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the

placement.

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or caregiver ~~legal custodian~~ in an effort to address the needs of the child as indicated in the case plan.

5. A statement that either:

a. The parent, though able to do so, did not comply substantially with the case plan, and the agency recommendations;

b. The parent did substantially comply with the case plan; or

c. The parent has partially complied with the case plan, with a summary of additional progress needed and the agency recommendations.

6. A statement from the foster parent or caregiver ~~legal custodian~~ providing any material evidence concerning the well-being of the child, the impact of any services provided to the child, the working relationship between the parents and caregivers, and the return of the child to the ~~parent or~~ parents.

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency and caregiver recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or

her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.

10. If the child has reached 13 years of age but is not yet 18 years of age, a statement from the caregiver on the progress the child has made in acquiring independent living skills.

11. Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the parents or any caregiver since the last judicial review hearing.

12. Copies of the child's current health, mental health, and education records as identified in s. 39.6012.

(c) *Review determinations.*—The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or caregiver ~~legal custodian~~, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even

though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

1. If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

2. If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

3. If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

5. The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

6. The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7. The frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as

any efforts undertaken to reunite separated siblings if doing so is in the best interests ~~interest~~ of the child.

8. The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply, if applicable.

9. Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care lead agency ~~provider~~ that:

a. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

b. The community-based care lead agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

10. A projected date likely for the child's return home or other permanent placement.

11. When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party

participation in a case plan were sufficient.

12. For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living. For a child who is 15 years of age or older, the court shall determine if appropriate steps are being taken for the child to obtain a driver license or learner's driver license.

13. If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

14. If the parents and caregivers have developed a productive relationship that includes meaningful communication and mutual support.

Section 8. Subsection (3) of section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.—

(3) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a child-caring agency registered under s. 409.176, a licensed professional, or an agency described in s. 61.20(2), unless the adoptee is an adult or the petitioner is a stepparent or a relative. If the adoptee is an adult or the petitioner is a stepparent or a relative, a preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, child-caring agency registered under s. 409.176, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The

preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive minor. Preliminary home studies initiated for identified prospective adoptive minors that are in the custody of the department must be completed within 30 days of initiation. A favorable preliminary home study is valid for 1 year after the date of its completion. Upon its completion, a signed copy of the home study must be provided to the intended adoptive parents who were the subject of the home study. A minor may not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(a) An interview with the intended adoptive parents;

(b) Records checks of the department's central abuse registry, which the department shall provide to the entity conducting the preliminary home study, and criminal records correspondence checks under s. 39.0138 through the Department of Law Enforcement on the intended adoptive parents;

(c) An assessment of the physical environment of the home;

(d) A determination of the financial security of the intended adoptive parents;

(e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting, as determined by the entity conducting the preliminary home study. The training specified in s. 409.175(14) shall only be required for persons who adopt children from the department;

(f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive

parents;

(g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; and

(h) A copy of each signed acknowledgment of receipt of disclosure required by s. 63.085.

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the adoption entity may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home. A minor may not be placed in a home in which there resides any person determined by the court to be a sexual predator as defined in s. 775.21 or to have been convicted of an offense listed in s. 63.089(4)(b)2.

Section 9. Section 63.093, Florida Statutes, is created to read:

63.093 Adoption of a child from the child welfare system.—The adoption of a child from Florida's foster care system is a process that typically includes an orientation session, an in-depth training program to help prospective parents determine if adoption is right for the family, a home study, and a background

check. Once the process has been completed, prospective parents are ready to be matched with a child available for adoption.

(1) The prospective adoptive parents' initial inquiry to the department or to the community-based care lead agency or subcontractor staff, whether written or verbal, must receive a written response or a telephone call from the department or agency or subcontractor staff, as applicable, within 7 business days after receipt of the inquiry. Prospective adoptive parents who indicate an interest in adopting children in the custody of the department must be referred by the department or agency or subcontractor staff to a department-approved adoptive parent training program as prescribed in rule.

(2) An application to adopt must be made on the "Adoptive Home Application" published by the department.

(3) An adoptive home study that includes observation, screening, and evaluation of the child and adoptive applicants must be completed by a staff person with the community-based care lead agency, the subcontractor agency, or another licensed child-placing agency prior to the adoptive placement of the child. The purpose of this evaluation is to select families who will be able to meet the physical, emotional, social, educational, and financial needs of a child, while safeguarding the child from further loss and separation from siblings and significant adults. The adoptive home study is valid for 12 months from the approval date.

(4) In addition to other required documentation, an adoptive parent application file must include the adoptive home study and verification that all background screening requirements have been met.

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(5) The department-approved adoptive parent training must be provided to and successfully completed by all prospective adoptive parents except licensed foster parents and relative and nonrelative caregivers who previously attended the training within the last 5 years, as prescribed in rule, or have the child currently placed in their home for 6 months or longer, and been determined to understand the challenges and parenting skills needed to successfully parent the children available for adoption from foster care.

(6) At the conclusion of the preparation and study process, the counselor and supervisor shall make a decision about the family's appropriateness to adopt. The decision to approve or not to approve will be reflected in the final recommendation included in the home study. If the recommendation is for approval, the adoptive parent application file must be submitted to the community-based lead agency or subcontractor agency for approval, which must be made within 14 business days.

With the exception of subsection (1), the provisions of this section do not apply to children adopted through the process provided for in s. 63.082(6). The intent of the language is to not include private adoptions and interventions.

Section 10. Section 409.1415, Florida Statutes, is created to read:

409.1415 Parenting partnerships for children in out-of-home care.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that reunification is the most common outcome for children in out-of-home care and that

caregivers are one of the most important resources to help children reunify with their families.

(b) The Legislature further finds that the most successful caregivers understand that their role goes beyond supporting the children in their care to supporting the children's families, as a whole, and that children and their families benefit when caregivers and birth parents are supported by an agency culture that encourages a meaningful partnership between them and provides quality support.

(c) Therefore, in keeping with national trends, it is the intent of the Legislature to bring birth parents and caregivers together in order to build strong relationships that lead to more successful reunifications and more stability for children being fostered in out-of-home care.

(2) PARENTING PARTNERSHIPS.—

(a) *General provisions.*—In order to ensure that children in out-of-home care achieve legal permanency as soon as possible, to reduce the likelihood that they will re-enter care or that other children in the family are abused or neglected or enter out-of-home care, and to ensure that families are fully prepared to resume custody of their children, the department and community-based care lead agencies shall develop and support relationships between caregivers and the legal parents of children in out-of-home care to the extent that it is safe and in the child's best interest, by:

1. Facilitating telephone communication between the caregiver and the birth or legal parent as soon as possible after the child is placed in the home.

2. Facilitating and attending an in-person meeting between

the caregiver and the birth or legal parent as soon as possible after placement.

3. Developing and supporting a plan for birth or legal parents to participate in medical appointments, educational and extracurricular activities, and other events involving the child.

4. Facilitating participation by the caregiver in visitation between the birth parent and the child.

5. Involving the caregiver in planning meetings with the birth parent.

6. Developing and implementing effective transition plans for the child's return home or placement in any other living environment.

7. Supporting continued contact between the caregiver and the child after the child returns home or moves to another permanent living arrangement.

(b) *Responsibilities.*—To ensure that a child in out-of-home care receives support for healthy development which gives him or her the best possible opportunity for success, caregivers, birth parents, the department, community-based care lead agency staff, and other agency staff, as applicable, shall work cooperatively in a respectful partnership by adhering to the following requirements:

1. All members of the partnership must interact and communicate professionally with one another, must share all relevant information promptly, and must respect the confidentiality of all information related to a child and his or her family.

2. Caregivers, the family, the child if appropriate, the

department, community-based care lead agency staff, and other agency staff must participate in developing a case plan for the child and family, and all members of the team must work together to implement the plan. Caregivers must participate in all team meetings or court hearings related to the child's care and future plans. The department, community-based care lead agency staff, and other agency staff must support and facilitate caregiver participation through timely notification of such meetings and hearings and an inclusive process, and by providing alternative methods for participation for caregivers who cannot be physically present at a meeting or hearing.

3. Excellent parenting is a reasonable expectation of caregivers. Caregivers must provide, and the department, community-based care lead agency staff, and other agency staff must support, excellent parenting. As used in this subparagraph, the term "excellent parenting" means a loving commitment to the child and the child's safety and well-being; appropriate supervision and positive methods of discipline; encouragement of the child's strengths; respect for the child's individuality and likes and dislikes; providing opportunities for the child to develop interests and skills; being aware of the impact of trauma on behavior; facilitating equal participation of the child in family life; involving the child within his or her community; and a commitment to enable the child to lead a normal life.

4. Children in out-of-home care may be placed only with a caregiver who has the ability to care for the child; is willing to accept responsibility for providing care; and is willing and able to learn about and be respectful of the child's culture,

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religion, and ethnicity, his or her special physical or psychological needs, any circumstances unique to the child, and family relationships. The department, the community-based care lead agency, and other agencies must provide a caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

5. A caregiver must have access to and take advantage of all training that he or she needs to improve his or her skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home; to meet the child's special needs; and to work effectively with child welfare agencies, the courts, the schools, and other community and governmental agencies.

6. The department, community-based care lead agency staff, and other agency staff must provide caregivers with the services and support they need to enable them to provide quality care for the child.

7. Once a caregiver accepts the responsibility of caring for a child, the child may be removed from that caregiver only if the caregiver is clearly unable to care for him or her safely or legally, when the child and his or her biological family are reunified, when the child is being placed in a legally permanent home in accordance with a case plan or court order, or when the removal is demonstrably in the best interests of the child.

8. If a child must leave the caregiver's home for one of the reasons stated in subparagraph 7., and in the absence of an unforeseeable emergency, the transition must be accomplished according to a plan that involves cooperation and sharing of

information among all persons involved, respects the child's developmental stage and psychological needs, ensures the child has all of his or her belongings, allows for a gradual transition from the caregiver's home, and, if possible, allows for continued contact with the caregiver after the child leaves.

9. When the plan for a child includes reunification, caregivers and agency staff must work together to assist the biological parents in improving their ability to care for and protect their children and to provide continuity for the child.

10. A caregiver must respect and support the child's ties to his or her biological family, including parents, siblings, and extended family members, and must assist the child in visitation and other forms of communication. The department, community-based care lead agency staff, and other agency staff must provide caregivers with the information, guidance, training, and support necessary for fulfilling this responsibility.

11. A caregiver must work in partnership with the department, community-based care lead agency staff, and other agency staff to obtain and maintain records that are important to the child's well-being including, but not limited to, child resource records, medical records, school records, photographs, and records of special events and achievements.

12. A caregiver must effectively advocate for a child in his or her care with the child welfare system, the court, and community agencies, including schools, child care providers, health and mental health providers, and employers. The department, community-based care lead agency staff, and other agency staff must support a caregiver in effectively advocating

for a child and may not retaliate against the caregiver as a result of this advocacy.

13. A caregiver must be as fully involved in the child's medical, psychological, and dental care as he or she would be for his or her biological child. Agency staff must support and facilitate such participation. Caregivers, the department, community-based care lead agency staff, and other agency staff must share information with each other about the child's health and well-being.

14. A caregiver must support a child's school success, including, when possible, maintaining school stability by participating in school activities and meetings, including individual education plan meetings; assisting with school assignments; supporting tutoring programs; meeting with teachers and working with an educational surrogate, if one has been appointed; and encouraging the child's participation in extracurricular activities. Agency staff must facilitate this participation and must be kept informed of the child's progress and needs.

15. Caregivers must ensure that the child in the caregiver's care who is between 13 and 17 years of age learns and masters independent living skills and is aware of the requirements and benefits of the Road-to-Independence Program.

16. Caseworkers and caseworker supervisors must mediate disagreements that occur between caregivers and birth parents.

(c) *Residential group homes.*—All employees, including persons who do not work directly with children, of a residential group home must meet the background screening requirements under s. 39.0138 and the level 2 standards for screening under chapter

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435. All employees in residential group homes working directly with children as caregivers must meet, at a minimum, the same education and, training, and background and other screening requirements as level 2 licensed foster parents.

(3) RULEMAKING.—The department shall adopt by rule procedures to administer this section.

Section 11. Section 409.145, Florida Statutes, is amended to read:

409.145 Care of children; ~~quality parenting;~~ "reasonable and prudent parent" standard.—The child welfare system of the department shall operate as a coordinated community-based system of care which empowers all caregivers for children in foster care to provide quality parenting, including approving or disapproving a child's participation in activities based on the caregiver's assessment using the "reasonable and prudent parent" standard.

(1) SYSTEM OF CARE.—The department shall develop, implement, and administer a coordinated community-based system of care for children who are found to be dependent and their families. This system of care must be directed toward the following goals:

(a) Prevention of separation of children from their families.

(b) Intervention to allow children to remain safely in their own homes.

(c) Reunification of families who have had children removed from their care.

(d) Safety for children who are separated from their families by providing alternative emergency or longer-term

parenting arrangements.

(e) Focus on the well-being of children through emphasis on maintaining educational stability and providing timely health care.

(f) Permanency for children for whom reunification with their families is not possible or is not in the best interest of the child.

(g) The transition to independence and self-sufficiency for older children who remain in foster care through adolescence.

~~(2) QUALITY PARENTING.—A child in foster care shall be placed only with a caregiver who has the ability to care for the child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion and ethnicity, special physical or psychological needs, any circumstances unique to the child, and family relationships. The department, the community-based care lead agency, and other agencies shall provide such caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.~~

~~(a) *Roles and responsibilities of caregivers.*—A caregiver shall:~~

~~1. Participate in developing the case plan for the child and his or her family and work with others involved in his or her care to implement this plan. This participation includes the caregiver's involvement in all team meetings or court hearings related to the child's care.~~

~~2. Complete all training needed to improve skills in parenting a child who has experienced trauma due to neglect,~~

~~abuse, or separation from home, to meet the child's special needs, and to work effectively with child welfare agencies, the court, the schools, and other community and governmental agencies.~~

~~3. Respect and support the child's ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication.~~

~~4. Effectively advocate for the child in the caregiver's care with the child welfare system, the court, and community agencies, including the school, child care, health and mental health providers, and employers.~~

~~5. Participate fully in the child's medical, psychological, and dental care as the caregiver would for his or her biological child.~~

~~6. Support the child's educational success by participating in activities and meetings associated with the child's school or other educational setting, including Individual Education Plan meetings and meetings with an educational surrogate if one has been appointed, assisting with assignments, supporting tutoring programs, and encouraging the child's participation in extracurricular activities.~~

~~a. Maintaining educational stability for a child while in out-of-home care by allowing the child to remain in the school or educational setting that he or she attended before entry into out-of-home care is the first priority, unless not in the best interest of the child.~~

~~b. If it is not in the best interest of the child to remain in his or her school or educational setting upon entry into out-of-home care, the caregiver must work with the case manager,~~

~~guardian ad litem, teachers and guidance counselors, and educational surrogate if one has been appointed to determine the best educational setting for the child. Such setting may include a public school that is not the school of origin, a private school pursuant to s. 1002.42, a virtual instruction program pursuant to s. 1002.45, or a home education program pursuant to s. 1002.41.~~

~~7. Work in partnership with other stakeholders to obtain and maintain records that are important to the child's well-being, including child resource records, medical records, school records, photographs, and records of special events and achievements.~~

~~8. Ensure that the child in the caregiver's care who is between 13 and 17 years of age learns and masters independent living skills.~~

~~9. Ensure that the child in the caregiver's care is aware of the requirements and benefits of the Road-to-Independence Program.~~

~~10. Work to enable the child in the caregiver's care to establish and maintain naturally occurring mentoring relationships.~~

~~(b) *Roles and responsibilities of the department, the community-based care lead agency, and other agency staff.* The department, the community-based care lead agency, and other agency staff shall:~~

~~1. Include a caregiver in the development and implementation of the case plan for the child and his or her family. The caregiver shall be authorized to participate in all team meetings or court hearings related to the child's care and~~


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~~future plans. The caregiver's participation shall be facilitated through timely notification, an inclusive process, and alternative methods for participation for a caregiver who cannot be physically present.~~

~~2. Develop and make available to the caregiver the information, services, training, and support that the caregiver needs to improve his or her skills in parenting children who have experienced trauma due to neglect, abuse, or separation from home, to meet these children's special needs, and to advocate effectively with child welfare agencies, the courts, schools, and other community and governmental agencies.~~

~~3. Provide the caregiver with all information related to services and other benefits that are available to the child.~~

~~4. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.~~

~~(c) *Transitions.*—~~

~~1. Once a caregiver accepts the responsibility of caring for a child, the child will be removed from the home of that caregiver only if:~~

~~a. The caregiver is clearly unable to safely or legally care for the child;~~

~~b. The child and his or her biological family are reunified;~~

~~c. The child is being placed in a legally permanent home pursuant to the case plan or a court order; or~~

~~d. The removal is demonstrably in the child's best interest.~~

~~2. In the absence of an emergency, if a child leaves the~~

~~caregiver's home for a reason provided under subparagraph 1., the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child's developmental stage and psychological needs, ensures the child has all of his or her belongings, allows for a gradual transition from the caregiver's home and, if possible, for continued contact with the caregiver after the child leaves.~~

~~(d) *Information sharing.*—Whenever a foster home or residential group home assumes responsibility for the care of a child, the department and any additional providers shall make available to the caregiver as soon as is practicable all relevant information concerning the child. Records and information that are required to be shared with caregivers include, but are not limited to:~~

~~1. Medical, dental, psychological, psychiatric, and behavioral history, as well as ongoing evaluation or treatment needs;~~

~~2. School records;~~

~~3. Copies of his or her birth certificate and, if appropriate, immigration status documents;~~

~~4. Consents signed by parents;~~

~~5. Comprehensive behavioral assessments and other social assessments;~~

~~6. Court orders;~~

~~7. Visitation and case plans;~~

~~8. Guardian ad litem reports;~~

~~9. Staffing forms; and~~

~~10. Judicial or citizen review panel reports and~~

~~attachments filed with the court, except confidential medical, psychiatric, and psychological information regarding any party or participant other than the child.~~

~~(c) *Caregivers employed by residential group homes.*—All caregivers in residential group homes shall meet the same education, training, and background and other screening requirements as foster parents.~~

(2)~~(3)~~ REASONABLE AND PRUDENT PARENT STANDARD.—

(a) *Definitions.*—As used in this subsection, the term:

1. "Age-appropriate" means an activity or item that is generally accepted as suitable for a child of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity which is typical for an age or age group.

2. "Caregiver" means a person with whom the child is placed in out-of-home care, or a designated official for a group care facility licensed by the department under s. 409.175.

3. "Reasonable and prudent parent" standard means the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in extracurricular, enrichment, and social activities. This standard is characterized by careful and thoughtful parental decisionmaking that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

(b) *Application of standard of care.*—

1. Every child who comes into out-of-home care pursuant to this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

1055 2. Each caregiver shall use the reasonable and prudent
1056 parent standard in determining whether to give permission for a
1057 child living in out-of-home care to participate in
1058 extracurricular, enrichment, or social activities. When using
1059 the reasonable and prudent parent standard, the caregiver must
1060 consider:
1061 a. The child's age, maturity, and developmental level to
1062 maintain the overall health and safety of the child.
1063 b. The potential risk factors and the appropriateness of
1064 the extracurricular, enrichment, or social activity.
1065 c. The best interest of the child, based on information
1066 known by the caregiver.
1067 d. The importance of encouraging the child's emotional and
1068 developmental growth.
1069 e. The importance of providing the child with the most
1070 family-like living experience possible.
1071 f. The behavioral history of the child and the child's
1072 ability to safely participate in the proposed activity.
1073 (c) *Verification of services delivered.*—The department and
1074 each community-based care lead agency shall verify that private
1075 agencies providing out-of-home care services to dependent
1076 children have policies in place which are consistent with this
1077 section and that these agencies promote and protect the ability
1078 of dependent children to participate in age-appropriate
1079 extracurricular, enrichment, and social activities.
1080 (d) *Limitation of liability.*—A caregiver is not liable for
1081 harm caused to a child who participates in an activity approved
1082 by the caregiver, provided that the caregiver has acted in
1083 accordance with the reasonable and prudent parent standard. This

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paragraph may not be interpreted as removing or limiting any existing liability protection afforded by law.

(3) ~~(4)~~ FOSTER CARE ROOM AND BOARD RATES.—

(a) Effective July 1, 2018, room and board rates shall be paid to foster parents as follows:

Monthly Foster Care Rate

0-5 Years Age	6-12 Years Age	13-21 Years Age
$457.95	$469.68	$549.74

(b) Each January, foster parents shall receive an annual cost of living increase. The department shall calculate the new room and board rate increase equal to the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, not seasonally adjusted, or successor reports, for the preceding December compared to the prior December as initially reported by the United States Department of Labor, Bureau of Labor Statistics. The department shall make available the adjusted room and board rates annually.

(c) Effective July 1, 2019, foster parents of level I family foster homes, as defined in s. 409.175(5)(a) shall receive a room and board rate of $333.

(d) Effective July 1, 2019, the foster care room and board rate for level II family foster homes as defined in s.

409.175(5)(a) shall be the same as the new rate established for family foster homes as of January 1, 2019.

(e) Effective January 1, 2020, paragraph (b) shall only apply to level II through level V family foster homes, as defined in s. 409.175(5)(a).

(f) The amount of the monthly foster care room and board rate may be increased upon agreement among the department, the community-based care lead agency, and the foster parent.

(g) From July 1, 2018, through June 30, 2019, community-based care lead agencies providing care under contract with the department shall pay a supplemental room and board payment to foster care parents of all family foster homes, on a per-child basis, for providing independent life skills and normalcy supports to children who are 13 through 17 years of age placed in their care. The supplemental payment shall be paid monthly to the foster care parents in addition to the current monthly room and board rate payment. The supplemental monthly payment shall be based on 10 percent of the monthly room and board rate for children 13 through 21 years of age as provided under this section and adjusted annually. Effective July 1, 2019, such supplemental payments shall only be paid to foster parents of level II through level V family foster homes.

(4) ~~(5)~~ RULEMAKING.—The department shall adopt by rule procedures to administer this section.

Section 12. Paragraph (b) of subsection (6) of section 409.175, Florida Statutes, is amended, and paragraph (l) is added to that subsection, to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public

records exemption.—

(6)

(b) Upon application for licensure, the department shall conduct a licensing study based on its licensing rules; shall inspect the home or the agency and the records, including financial records, of the applicant or agency; and shall interview the applicant. The department may authorize a licensed child-placing agency to conduct the licensing study of a family foster home to be used exclusively by that agency and to verify to the department that the home meets the licensing requirements established by the department. A licensing study of a family foster home must be completed by the department or an authorized licensed child-placing agency within 30 days of initiation. The department shall post on its website a list of the agencies authorized to conduct such studies.

1. The complete application file shall be submitted in accordance with the traditional or attestation model for licensure as prescribed in rule. In addition to other required documentation, a traditional licensing application file must include a completed licensing study and verification of background screening requirements.

2. The department regional licensing authority shall ensure that the licensing application file is complete and that all licensing requirements are met for the issuance of the license. If the child-placing agency is contracted with a community-based care lead agency, the licensing application file must contain documentation of a review by the community-based care lead agency and the regional licensing authority and a recommendation for approval or denial by the community-based care lead agency

~~Upon certification by a licensed child-placing agency that a family foster home meets the licensing requirements and upon receipt of a letter from a community-based care lead agency in the service area where the home will be licensed which indicates that the family foster home meets the criteria established by the lead agency, the department shall issue the license~~. ~~A letter from the lead agency is not required if the lead agency where the proposed home is located is directly supervising foster homes in the same service area.~~

3. An application file must be approved or denied within 10 business days after receipt by the regional licensing authority. If the application file is approved, a license must be issued to the applicant. The must shall include the name and address of the caregiver, the name of the supervising agency, the licensed capacity, and the dates for which the license is valid. The department regional managing director or designee within upper level management shall sign the license. Any limitations must be displayed on the license.

4. The regional licensing authority shall provide a copy of the license to the community-based care lead agency or supervising agency. The community-based care lead agency or supervising agency shall ensure that the license is sent to the foster parent.

(l) The department shall approve or deny a license within 10 business days after receipt of a complete family foster home application and other required documentation as prescribed in rule. The department shall approve or deny a complete application no later than 100 calendar days after the orientation required by s. 409.175(14). The department may

exceed 100 calendar days to approve or deny a license if additional certifications are required by s. 409.175(5)(a).

Section 13. Paragraph (j) of subsection (1) of section 409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(j) May subcontract for the provision of services required by the contract with the lead agency and the department; however, the subcontracts must specify how the provider will contribute to the lead agency meeting the performance standards established pursuant to the child welfare results-oriented accountability system required by s. 409.997. The lead agency shall directly provide no more than 35 percent of all child welfare services provided unless it can demonstrate a need, within the lead agency's geographic service area, to exceed this threshold. The local community alliance in the geographic service area in which the lead agency is seeking to exceed the threshold shall review the lead agency's justification for need and recommend to the department whether the department should approve or deny the lead agency's request for an exemption from the services threshold. If there is not a community alliance operating in the geographic service area in which the lead agency is seeking to exceed the threshold, such review and recommendation shall be made by representatives of local stakeholders, including at least one representative from each of the following:

1. The department.

2. The county government.

3. The school district.

4. The county United Way.

5. The county sheriff's office.

6. The circuit court corresponding to the county.

7. The county children's board, if one exists.

Section 14. Paragraph (b) of subsection (7) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed pursuant to s. 409.175 and is named in any capacity in three or more reports within a 5-year period, the department may review all reports for the purposes of the employment screening required pursuant to s. 409.1415(2)(c) ~~s. 409.145(2)(c)~~.

Section 15. Paragraph (d) of subsection (5) of section 39.6225, Florida Statutes, is amended to read:

39.6225 Guardianship Assistance Program.—

(5) A guardian with an application approved pursuant to subsection (2) who is caring for a child placed with the guardian by the court pursuant to this part may receive

guardianship assistance payments based on the following criteria:

(d) The department shall provide guardianship assistance payments in the amount of $4,000 annually, paid on a monthly basis, or in an amount other than $4,000 annually as determined by the guardian and the department and memorialized in a written agreement between the guardian and the department. The agreement shall take into consideration the circumstances of the guardian and the needs of the child. Changes may not be made without the concurrence of the guardian. However, in no case shall the amount of the monthly payment exceed the foster care maintenance payment that would have been paid during the same period if the child had been in licensed care at his or her designated level of care at the rate established in s. 409.145(3) ~~s. 409.145(4)~~.

Section 16. Paragraph (b) of subsection (5) of section 393.065, Florida Statutes, is amended to read:

393.065 Application and eligibility determination.—

(5) The agency shall assign and provide priority to clients waiting for waiver services in the following order:

(b) Category 2, which includes individuals on the waiting list who are:

1. From the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either:

a. Transitioning out of the child welfare system at the finalization of an adoption, a reunification with family members, a permanent placement with a relative, or a guardianship with a nonrelative; or

b. At least 18 years but not yet 22 years of age and who


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need both waiver services and extended foster care services; or

2. At least 18 years but not yet 22 years of age and who withdrew consent pursuant to s. 39.6251(5)(c) to remain in the extended foster care system.

For individuals who are at least 18 years but not yet 22 years of age and who are eligible under sub-subparagraph 1.b., the agency shall provide waiver services, including residential habilitation, and the community-based care lead agency shall fund room and board at the rate established in s. 409.145(3) ~~s. 409.145(4)~~ and provide case management and related services as defined in s. 409.986(3)(e). Individuals may receive both waiver services and services under s. 39.6251. Services may not duplicate services available through the Medicaid state plan.

Within categories 3, 4, 5, 6, and 7, the agency shall maintain a waiting list of clients placed in the order of the date that the client is determined eligible for waiver services.

Section 17. Paragraph (b) of subsection (2) of section 409.1451, Florida Statutes, is amended to read:

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

(b) The amount of the financial assistance shall be as follows:

1. For a young adult who does not remain in foster care and is attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly.

2. For a young adult who remains in foster care, is attending a postsecondary school, as provided in s. 1009.533,

and continues to reside in a licensed foster home, the amount is the established room and board rate for foster parents. This takes the place of the payment provided for in s. 409.145(3) ~~s. 409.145(4)~~.

3. For a young adult who remains in foster care, but temporarily resides away from a licensed foster home for purposes of attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly. This takes the place of the payment provided for in s. 409.145(3) ~~s. 409.145(4)~~.

4. For a young adult who remains in foster care, is attending a postsecondary school as provided in s. 1009.533, and continues to reside in a licensed group home, the amount is negotiated between the community-based care lead agency and the licensed group home provider.

5. For a young adult who remains in foster care, but temporarily resides away from a licensed group home for purposes of attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly. This takes the place of a negotiated room and board rate.

6. A young adult is eligible to receive financial assistance during the months when he or she is enrolled in a postsecondary educational institution.

Section 18. For the 2020-2021 fiscal year, the sums of $2,198,670 in recurring and $51,020 in nonrecurring funds from the General Revenue Fund are appropriated to the State Court System, and 21 full-time equivalent positions with associated salary rate of 1,322,144 are authorized for the purposes of implementing this act.

Section 19. This act shall take effect July 1, 2020.

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1340
1341 ================ T I T L E A M E N D M E N T ================
1342 And the title is amended as follows:
1343 Delete everything before the enacting clause
1344 and insert:
1345 A bill to be entitled
1346 An act relating to child welfare; amending s. 25.385,
1347 F.S.; requiring the Florida Court Educational Council
1348 to establish certain standards for instruction of
1349 circuit and county court judges for dependency cases;
1350 requiring the council to provide such instruction on a
1351 periodic and timely basis; creating s. 39.01304, F.S.;
1352 authorizing circuit courts to create early childhood
1353 court programs; specifying that early childhood court
1354 programs may have certain components; requiring the
1355 Office of State Courts Administrator to contract for
1356 an evaluation; requiring the Office of the State
1357 Courts Administrator to provide or contract for
1358 specified duties; amending s. 39.0138, F.S.; requiring
1359 the department to complete background screenings
1360 within a specified timeframe; providing an exception;
1361 amending s. 39.301, F.S.; requiring the department to
1362 notify the court of certain reports; authorizing the
1363 department to file specified petitions under certain
1364 circumstances; amending s. 39.522, F.S.; requiring the
1365 court to consider specified factors when making a
1366 certain determination; authorizing the court or any
1367 party to the case to file a petition to place a child
1368 in out-of-home care under certain circumstances;


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requiring the court to consider specified factors when determining whether the child should be placed in out-of-home care; requiring the court to evaluate and change a child's permanency goal under certain circumstances; amending s. 39.6011, F.S.; revising and providing requirements for case plan descriptions; amending s. 39.701, F.S.; requiring the court to retain jurisdiction over a child under certain circumstances; requiring specified parties to disclose certain information to the court; providing for certain caregiver recommendations to the court; requiring the court and citizen review panel to determine whether certain parties have developed a productive relationship; amending s. 63.092, F.S.; providing a deadline for completion of a preliminary home study; creating s. 63.093, F.S.; providing requirements and processes for the adoption of children from the child welfare system; creating s. 409.1415, F.S.; providing legislative findings and intent; requiring the department and community-based care lead agencies to develop and support relationships between certain foster families and legal parents of children; providing responsibilities for foster parents, birth parents, the department, community-based care lead agency staff, and other agency staff; defining the term "excellent parenting"; requiring employees of residential group homes to meet specified requirements; requiring the department to adopt rules; amending s. 409.145, F.S.; conforming


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provisions to changes made by the act; amending s. 409.175, F.S.; revising requirements for the licensure of family foster homes; requiring the department to issue determinations for family foster home licenses within a specified timeframe; providing an exception; amending s. 409.988, F.S.; authorizing a lead agency to provide more than 35 percent of all child welfare services under certain conditions; requiring a specified local community alliance, or specified representatives in certain circumstances, to review and recommend approval or denial of the lead agency's request for a specified exemption; amending ss. 39.302, 39.6225, 393.065, and 409.1451, F.S.; conforming cross-references; providing an appropriation; providing an effective date.

By the Committee on Children, Families, and Elder Affairs; and Senator Simpson

586-02285A-20 20201324c1

A bill to be entitled

An act relating to child welfare; amending s. 25.385, F.S.; requiring the Florida Court Educational Council to establish certain standards for instruction of circuit and county court judges for dependency cases; requiring the council to provide such instruction on a periodic and timely basis; creating s. 39.01304, F.S.; providing legislative intent; providing a purpose; authorizing circuit courts to create early childhood court programs; requiring that early childhood court programs have certain components; defining the term "therapeutic jurisprudence"; providing requirements and guidelines for the Office of the State Courts Administrator when hiring community coordinators and a statewide training specialist; requiring the Department of Children and Families to contract with certain university-based centers; requiring the university-based centers to hire a clinical director; amending s. 39.0138, F.S.; requiring the department to complete background screenings within a specified timeframe; providing an exception; amending s. 39.301, F.S.; requiring the department to notify the court of certain reports; authorizing the department to file specified petitions under certain circumstances; amending s. 39.522, F.S.; requiring the court to consider specified factors when making a certain determination; authorizing the court or any party to the case to file a petition to place a child in out-of-home care under certain circumstances; requiring

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the court to consider specified factors when determining whether the child should be placed in out-of-home care; requiring the court to evaluate and change a child's permanency goal under certain circumstances; amending s. 39.6011, F.S.; revising and providing requirements for case plan descriptions; amending s. 39.701, F.S.; requiring the court to retain jurisdiction over a child under certain circumstances; requiring specified parties to disclose certain information to the court; providing for certain caregiver recommendations to the court; requiring the court and citizen review panel to determine whether certain parties have developed a productive relationship; amending s. 63.092, F.S.; providing a deadline for completion of a preliminary home study; creating s. 63.093, F.S.; providing requirements and processes for the adoption of children from the child welfare system; creating s. 409.1415, F.S.; providing legislative findings and intent; requiring the department and community-based care lead agencies to develop and support relationships between certain foster families and legal parents of children; providing responsibilities for foster parents, birth parents, the department, community-based care lead agency staff, and other agency staff; defining the term "excellent parenting"; requiring caregivers employed by residential group homes to meet specified requirements; requiring the department to adopt rules; amending s. 409.145, F.S.;

conforming provisions to changes made by the act; amending s. 409.175, F.S.; revising requirements for the licensure of family foster homes; requiring the department to issue determinations for family foster home licenses within a specified timeframe; providing an exception; amending s. 409.988, F.S.; authorizing a lead agency to provide more than 35 percent of all child welfare services under certain conditions; requiring a specified local community alliance, or specified representatives in certain circumstances, to review and recommend approval or denial of the lead agency's request for a specified exemption; amending ss. 39.302, 39.6225, 393.065, and 409.1451, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 25.385, Florida Statutes, is amended to read:

25.385 Standards for instruction of circuit and county court judges ~~in handling domestic violence cases~~.—

(1) The Florida Court Educational Council shall establish standards for instruction of circuit and county court judges who have responsibility for domestic violence cases, and the council shall provide such instruction on a periodic and timely basis.

~~(2)~~ As used in this subsection, ~~section:~~

~~(a)~~ the term "domestic violence" has the meaning set forth in s. 741.28.

~~(b) "Family or household member" has the meaning set forth in s. 741.28.~~

(2) The Florida Court Educational Council shall establish standards for instruction of circuit and county court judges who have responsibility for dependency cases regarding the benefits of a secure attachment with a primary caregiver, the importance of a stable placement, and the impact of trauma on child development. The council shall provide such instruction to the circuit and county court judges handling dependency cases on a periodic and timely basis.

Section 2. Section 39.01304, Florida Statutes, is created to read:

39.01304 Early childhood court programs.—

(1) It is the intent of the Legislature to encourage the department, the Department of Health, the Association of Early Learning Coalitions, and other such agencies; local governments; interested public or private entities; and individuals to support the creation and establishment of early childhood court programs. The purpose of an early childhood court program is to address the root cause of court involvement through specialized dockets, multidisciplinary teams, evidence-based treatment, and the use of a nonadversarial approach. Such programs depend on the leadership of a judge or magistrate who is educated about the science of early childhood development and who requires rigorous efforts to heal children physically and emotionally in the context of a broad collaboration among professionals from different systems working directly in the court as a team, recognizing that the parent-child relationship is the foundation of child well-being.

(2) A circuit court may create an early childhood court program to serve the needs of infants and toddlers in dependency court. An early childhood court program must have all of the following components:

(a) Therapeutic jurisprudence, which must drive every aspect of judicial practice. The judge or magistrate must support the therapeutic needs of the parent and child in a nonadversarial manner. As used in this paragraph, the term "therapeutic jurisprudence" means the study of how the law may be used as a therapeutic agent and focuses on how laws impact emotional and psychological well-being.

(b) A procedure for coordinating services and resources for families who have a case on the court docket. To meet this requirement, the court may create and fill at least one community coordinator position pursuant to paragraph (3)(a).

(c) A multidisciplinary team made up of key community stakeholders who commit to work with the judge or magistrate to restructure the way the community responds to the needs of maltreated children. The team may include, but is not limited to, early intervention specialists; mental health and infant mental health professionals; attorneys representing children, parents, and the child welfare system; children's advocates; early learning coalitions and child care providers; substance abuse program providers; primary health care providers; domestic violence advocates; and guardians ad litem. The multidisciplinary team must address the need for children in an early childhood court program to receive medical care in a medical home, a screening for developmental delays conducted by the local agency responsible for complying with part C of the

federal Individuals with Disabilities Education Act, and quality child care.

(d) A continuum of mental health services which includes a focus on the parent-child relationship and is appropriate for each child and family served.

(3) Contingent upon an annual appropriation by the Legislature, and subject to available resources:

(a) The Office of the State Courts Administrator shall coordinate with each participating circuit court to create and fill at least one community coordinator position for the circuit's early childhood court program. Each community coordinator shall provide direct support to the program by coordinating between the multidisciplinary team and the judiciary, coordinating the responsibilities of the participating agencies and service providers, and managing the collection of data for program evaluation and accountability. The Office of State Courts Administrator may hire a statewide training specialist to provide training to the participating court teams.

(b) The department shall contract with one or more university-based centers that have expertise in infant mental health, and such university-based centers shall hire a clinical director charged with ensuring the quality, accountability, and fidelity of the program's evidence-based treatment, including, but not limited to, training and technical assistance related to clinical services, clinical consultation and guidance for difficult cases, and ongoing clinical training for court teams.

Section 3. Subsection (1) of section 39.0138, Florida Statutes, is amended to read

39.0138 Criminal history and other records checks; limit on placement of a child.—

(1) The department shall conduct a records check through the State Automated Child Welfare Information System (SACWIS) and a local and statewide criminal history records check on all persons, including parents, being considered by the department for placement of a child under this chapter, including all nonrelative placement decisions, and all members of the household, 12 years of age and older, of the person being considered. For purposes of this section, a criminal history records check may include, but is not limited to, submission of fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information, and local criminal records checks through local law enforcement agencies of all household members 18 years of age and older and other visitors to the home. Background screenings must be completed within 14 business days after the department receives the criminal history results, unless additional information regarding the criminal history is required to complete processing. An out-of-state criminal history records check must be initiated for any person 18 years of age or older who resided in another state if that state allows the release of such records. The department shall establish by rule standards for evaluating any information contained in the automated system relating to a person who must be screened for purposes of making a placement decision.

Section 4. Subsection (1) and paragraph (a) of subsection (9) of section 39.301, Florida Statutes, are amended to read:

39.301 Initiation of protective investigations.—

(1)(a) Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification, the central abuse hotline shall also provide information to district staff on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(b) The department shall promptly notify the court of any report to the central abuse hotline that is accepted for a protective investigation and involves a child over whom the court has jurisdiction.

(9)(a) For each report received from the central abuse hotline and accepted for investigation, the department or the sheriff providing child protective investigative services under s. 39.3065, shall perform the following child protective investigation activities to determine child safety:

1. Conduct a review of all relevant, available information

specific to the child and family and alleged maltreatment; family child welfare history; local, state, and federal criminal records checks; and requests for law enforcement assistance provided by the abuse hotline. Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur with law enforcement, the Child Protection Team, a domestic violence shelter or advocate, or a substance abuse or mental health professional. Such consultations should include discussion as to whether a joint response is necessary and feasible. A determination shall be made as to whether the person making the report should be contacted before the face-to-face interviews with the child and family members.

2. Conduct face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or caregivers.

3. Assess the child's residence, including a determination of the composition of the family and household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

4. Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address,

date of birth, social security number, sex, and race of each such person.

5. Complete assessment of immediate child safety for each child based on available records, interviews, and observations with all persons named in subparagraph 2. and appropriate collateral contacts, which may include other professionals. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and may not be further disseminated or used for any other purpose.

6. Document the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument. If present or impending danger is identified, the child protective investigator must implement a safety plan or take the child into custody. If present danger is identified and the child is not removed, the child protective investigator shall create and implement a safety plan before leaving the home or the location where there is present danger. If impending danger is identified, the child protective investigator shall create and implement a safety plan as soon as necessary to protect the safety of the child. The child protective investigator may modify the safety plan if he or she identifies

additional impending danger.

a. If the child protective investigator implements a safety plan, the plan must be specific, sufficient, feasible, and sustainable in response to the realities of the present or impending danger. A safety plan may be an in-home plan or an out-of-home plan, or a combination of both. A safety plan may include tasks or responsibilities for a parent, caregiver, or legal custodian. However, a safety plan may not rely on promissory commitments by the parent, caregiver, or legal custodian who is currently not able to protect the child or on services that are not available or will not result in the safety of the child. A safety plan may not be implemented if for any reason the parents, guardian, or legal custodian lacks the capacity or ability to comply with the plan. If the department is not able to develop a plan that is specific, sufficient, feasible, and sustainable, the department shall file a shelter petition. A child protective investigator shall implement separate safety plans for the perpetrator of domestic violence, if the investigator, using reasonable efforts, can locate the perpetrator to implement a safety plan, and for the parent who is a victim of domestic violence as defined in s. 741.28. Reasonable efforts to locate a perpetrator include, but are not limited to, a diligent search pursuant to the same requirements as in s. 39.503. If the perpetrator of domestic violence is not the parent, guardian, or legal custodian of any child in the home and if the department does not intend to file a shelter petition or dependency petition that will assert allegations against the perpetrator as a parent of a child in the home, the child protective investigator shall seek issuance of an

injunction authorized by s. 39.504 to implement a safety plan for the perpetrator and impose any other conditions to protect the child. The safety plan for the parent who is a victim of domestic violence may not be shared with the perpetrator. If any party to a safety plan fails to comply with the safety plan resulting in the child being unsafe, the department shall file a shelter petition.

b. The child protective investigator shall collaborate with the community-based care lead agency in the development of the safety plan as necessary to ensure that the safety plan is specific, sufficient, feasible, and sustainable. The child protective investigator shall identify services necessary for the successful implementation of the safety plan. The child protective investigator and the community-based care lead agency shall mobilize service resources to assist all parties in complying with the safety plan. The community-based care lead agency shall prioritize safety plan services to families who have multiple risk factors, including, but not limited to, two or more of the following:

(I) The parent or legal custodian is of young age;

(II) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has a history of substance abuse, mental illness, or domestic violence;

(III) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has been previously found to have physically or sexually abused a child;

(IV) The parent or legal custodian or an adult currently living in or frequently visiting the home has been the subject of multiple allegations by reputable reports of abuse or

neglect;

(V) The child is physically or developmentally disabled; or

(VI) The child is 3 years of age or younger.

c. The child protective investigator shall monitor the implementation of the plan to ensure the child's safety until the case is transferred to the lead agency at which time the lead agency shall monitor the implementation.

d. The department may file a petition for shelter or dependency without a new child protective investigation or the concurrence of the child protective investigator if the child is unsafe but for the use of a safety plan and the parent or caregiver has not sufficiently increased protective capacities within 90 days after the transfer of the safety plan to the lead agency.

Section 5. Subsection (1) of section 39.522, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

39.522 Postdisposition change of custody.—The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing.

(1)(a) At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other interested person, upon the filing of a motion alleging a need for a change in the conditions of protective

supervision or the placement. If the parents or other legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interests ~~interest~~ of the child. When determining whether a change of legal custody or placement is in ~~applying this standard, the court shall consider the continuity of the child's placement in the same out-of-home residence as a factor when determining~~ the best interests of the child, the court shall consider:

1. The child's age.

2. The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.

3. The stability and longevity of the child's current placement.

4. The established bonded relationship between the child and the current or proposed caregiver.

5. The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.

6. The recommendation of the child's current caregiver.

7. The recommendation of the child's guardian ad litem, if one has been appointed.

8. The child's previous and current relationship with a sibling, if the change of legal custody or placement will

separate or reunite siblings.

9. The likelihood of the child attaining permanency in the current or proposed placement.

10. Any other relevant factors.

(b) If the child is not placed in foster care, ~~then~~ the new placement for the child must meet the home study criteria and court approval under ~~pursuant to~~ this chapter.

(4)(a) The court or any party to the case may file a petition to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan if:

1. The child has again been abused, neglected, or abandoned by the parent or caregiver, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment that has reoccurred; or

2. The parent or caregiver has materially violated a condition of placement imposed by the court, including, but not limited to, not complying with the in-home safety plan or case plan.

(b) If a child meets the criteria in paragraph (a) to be removed and placed in out-of-home care, the court must consider, at a minimum, the following in making its determination to remove the child and place the child in out-of-home care:

1. The circumstances that caused the child's dependency and other subsequently identified issues.

2. The length of time the child has been placed in the home with an in-home safety plan.

3. The parent's or caregiver's current level of protective

capacities.

4. The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.

(c) The court shall evaluate the child's permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child.

Section 6. Subsection (5) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(5) The case plan must describe all of the following:

(a) The role of the foster parents or caregivers ~~legal custodians~~ when developing the services that are to be provided to the child, foster parents, or caregivers. ~~legal custodians;~~

(b) The responsibility of the parents and caregivers to work together to successfully implement the case plan, how the case manager will assist the parents and caregivers in developing a productive relationship that includes meaningful communication and mutual support, and the ability of the parents or caregivers to notify the court or the case manager if ineffective communication takes place that negatively impacts the child.

(c) ~~(b)~~ The responsibility of the case manager to forward a relative's request to receive notification of all proceedings and hearings submitted under ~~pursuant to~~ s. 39.301(14)(b) to the attorney for the department.~~;~~

(d) ~~(c)~~ The minimum number of face-to-face meetings to be held each month between the parents and the department's family

services counselors to review the progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements between parents and caregivers, service providers, or any other professional assisting the parents in the completion of the case plan.~~; and~~

(e)~~(d)~~ The parent's responsibility for financial support of the child, including, but not limited to, health insurance and child support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support shall be made independently of any determination of indigency under s. 39.013.

Section 7. Paragraph (b) of subsection (1) and paragraphs (a) and (c) of subsection (2) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(1) GENERAL PROVISIONS.—

(b)1. The court shall retain jurisdiction over a child returned to his or her parents for a minimum period of 6 months following the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem, if one has been appointed, and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's jurisdiction shall continue or be terminated.

2. Notwithstanding subparagraph 1., the court must retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such

safety plan remains necessary for the child to reside safely in the home.

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(a) *Social study report for judicial review.*—Before every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement.

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or caregiver ~~legal custodian~~ in an effort to address the needs of the child as indicated in the case plan.

5. A statement that either:

a. The parent, though able to do so, did not comply substantially with the case plan, and the agency recommendations;

b. The parent did substantially comply with the case plan; or

c. The parent has partially complied with the case plan,

with a summary of additional progress needed and the agency recommendations.

6. A statement from the foster parent or caregiver ~~legal custodian~~ providing any material evidence concerning the well-being of the child, the impact of any services provided to the child, the working relationship between the parents and caregivers, and the return of the child to the ~~parent or~~ parents.

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency and caregiver recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.

10. If the child has reached 13 years of age but is not yet 18 years of age, a statement from the caregiver on the progress the child has made in acquiring independent living skills.

11. Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the parents or any caregiver since the last judicial review hearing.

12. Copies of the child's current health, mental health, and education records as identified in s. 39.6012.

(c) *Review determinations.*—The court and any citizen review

panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or caregiver ~~legal custodian~~, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

1. If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

2. If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

3. If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the

district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

5. The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

6. The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7. The frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interests ~~interest~~ of the child.

8. The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply, if applicable.

9. Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care lead agency ~~provider~~ that:

a. The placement of the child takes into account the

appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

b. The community-based care lead agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

10. A projected date likely for the child's return home or other permanent placement.

11. When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

12. For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living. For a child who is 15 years of age or older, the court shall determine if appropriate steps are being taken for the child to obtain a driver license or learner's driver license.

13. If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

14. If the parents and caregivers have developed a productive relationship that includes meaningful communication and mutual support.

Section 8. Subsection (3) of section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.—

(3) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a child-caring agency registered under s. 409.176, a licensed professional, or an agency described in s. 61.20(2), unless the adoptee is an adult or the petitioner is a stepparent or a relative. If the adoptee is an adult or the petitioner is a stepparent or a relative, a preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, child-caring agency registered under s. 409.176, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive minor. Preliminary home studies initiated for identified prospective adoptive minors that are in the custody of the department must be completed within 30 days of initiation. A favorable preliminary home study is valid for 1 year after the date of its completion. Upon its completion, a signed copy of the home study must be provided to the intended adoptive parents who were the subject of the home study. A minor may not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(a) An interview with the intended adoptive parents;

(b) Records checks of the department's central abuse registry, which the department shall provide to the entity

conducting the preliminary home study, and criminal records correspondence checks under s. 39.0138 through the Department of Law Enforcement on the intended adoptive parents;

(c) An assessment of the physical environment of the home;

(d) A determination of the financial security of the intended adoptive parents;

(e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting, as determined by the entity conducting the preliminary home study. The training specified in s. 409.175(14) shall only be required for persons who adopt children from the department;

(f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;

(g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; and

(h) A copy of each signed acknowledgment of receipt of disclosure required by s. 63.085.

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the adoption entity may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final

hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home. A minor may not be placed in a home in which there resides any person determined by the court to be a sexual predator as defined in s. 775.21 or to have been convicted of an offense listed in s. 63.089(4)(b)2.

Section 9. Section 63.093, Florida Statutes, is created to read:

63.093 Adoption of a child from the child welfare system.—The adoption of a child from Florida's foster care system is a process that typically includes an orientation session, an in-depth training program to help prospective parents determine if adoption is right for the family, a home study, and a background check. Once the process has been completed, prospective parents are ready to be matched with a child available for adoption.

(1) The prospective adoptive parents' initial inquiry to the department or to the community-based care lead agency or subcontractor staff, whether written or verbal, must receive a written response or a telephone call from the department or agency or subcontractor staff, as applicable, within 7 business days after receipt of the inquiry. Prospective adoptive parents who indicate an interest in adopting children in the custody of the department must be referred by the department or agency or subcontractor staff to a department-approved adoptive parent training program as prescribed in rule.

(2) An application to adopt must be made on the "Adoptive Home Application" published by the department.

(3) An adoptive home study that includes observation, screening, and evaluation of the child and adoptive applicants

must be completed by a staff person with the community-based care lead agency, the subcontractor agency, or another licensed child-placing agency prior to the adoptive placement of the child. The purpose of this evaluation is to select families who will be able to meet the physical, emotional, social, educational, and financial needs of a child, while safeguarding the child from further loss and separation from siblings and significant adults. The adoptive home study is valid for 12 months from the approval date.

(4) In addition to other required documentation, an adoptive parent application file must include the adoptive home study and verification that all background screening requirements have been met.

(5) The department-approved adoptive parent training must be provided to and successfully completed by all prospective adoptive parents except licensed foster parents and relative and nonrelative caregivers who previously attended the training within the last 5 years, as prescribed in rule, or have the child currently placed in their home for 6 months or longer, and been determined to understand the challenges and parenting skills needed to successfully parent the children available for adoption from foster care.

(6) At the conclusion of the preparation and study process, the counselor and supervisor shall make a decision about the family's appropriateness to adopt. The decision to approve or not to approve will be reflected in the final recommendation included in the home study. If the recommendation is for approval, the adoptive parent application file must be submitted to the community-based lead agency or subcontractor agency for

approval, which must be made within 14 business days.

Section 10. Section 409.1415, Florida Statutes, is created to read:

409.1415 Parenting partnerships for children in out-of-home care.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that reunification is the most common outcome for children in out-of-home care and that foster parents are one of the most important resources to help children reunify with their families.

(b) The Legislature further finds that the most successful foster parents understand that their role goes beyond supporting the children in their care to supporting the children's families, as a whole, and that children and their families benefit when foster and birth parents are supported by an agency culture that encourages a meaningful partnership between them and provides quality support.

(c) Therefore, in keeping with national trends, it is the intent of the Legislature to bring birth parents and foster parents together in order to build strong relationships that lead to more successful reunifications and more stability for children being fostered in out-of-home care.

(2) PARENTING PARTNERSHIPS.—

(a) *General provisions*.—In order to ensure that children in out-of-home care achieve legal permanency as soon as possible, to reduce the likelihood that they will re-enter care or that other children in the family are abused or neglected or enter out-of-home care, and to ensure that families are fully prepared to resume custody of their children, the department and

community-based care lead agencies shall develop and support relationships between foster families and the legal parents of children in out-of-home care to the extent that it is safe and in the child's best interest, by:

1. Facilitating telephone communication between the foster parent and the birth or legal parent as soon as possible after the child is placed in the home.

2. Facilitating and attending an in-person meeting between the foster parent and the birth or legal parent within 2 weeks after placement.

3. Developing and supporting a plan for birth or legal parents to participate in medical appointments, educational and extracurricular activities, and other events involving the child.

4. Facilitating participation by the foster parent in visitation between the birth parent and the child.

5. Involving the foster parent in planning meetings with the birth parent.

6. Developing and implementing effective transition plans for the child's return home or placement in any other living environment.

7. Supporting continued contact between the foster family and the child after the child returns home or moves to another permanent living arrangement.

8. Supporting continued connection with the birth parent after adoption.

(b) *Responsibilities*.—To ensure that a child in out-of-home care receives support for healthy development which gives him or her the best possible opportunity for success, foster parents,

birth parents, the department, community-based care lead agency staff, and other agency staff, as applicable, shall work cooperatively in a respectful partnership by adhering to the following requirements:

1. All members of the partnership must interact and communicate professionally with one another, must share all relevant information promptly, and must respect the confidentiality of all information related to a child and his or her family.

2. Caregivers, the family, the department, community-based care lead agency staff, and other agency staff must participate in developing a case plan for the child and family, and all members of the team must work together to implement the plan. Caregivers must participate in all team meetings or court hearings related to the child's care and future plans. The department, community-based care lead agency staff, and other agency staff must support and facilitate caregiver participation through timely notification of such meetings and hearings and an inclusive process, and by providing alternative methods for participation for caregivers who cannot be physically present at a meeting or hearing.

3. Excellent parenting is a reasonable expectation of caregivers. Caregivers must provide, and the department, community-based care lead agency staff, and other agency staff must support, excellent parenting. As used in this subparagraph, the term "excellent parenting" means a loving commitment to the child and the child's safety and well-being; appropriate supervision and positive methods of discipline; encouragement of the child's strengths; respect for the child's individuality and

likes and dislikes; providing opportunities for the child to develop interests and skills; being aware of the impact of trauma on behavior; facilitating equal participation of the child in family life; involving the child within his or her community; and a commitment to enable the child to lead a normal life.

4. Children in out-of-home care may be placed only with a caregiver who has the ability to care for the child; is willing to accept responsibility for providing care; and is willing and able to learn about and be respectful of the child's culture, religion, and ethnicity, his or her special physical or psychological needs, any circumstances unique to the child, and family relationships. The department, the community-based care lead agency, and other agencies must provide a caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

5. A caregiver must have access to and take advantage of all training that he or she needs to improve his or her skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home; to meet the child's special needs; and to work effectively with child welfare agencies, the courts, the schools, and other community and governmental agencies.

6. The department, community-based care lead agency staff, and other agency staff must provide caregivers with the services and support they need to enable them to provide quality care for the child.

7. Once a family accepts the responsibility of caring for a

child, the child may be removed from that family only if the family is clearly unable to care for him or her safely or legally, when the child and his or her biological family are reunified, when the child is being placed in a legally permanent home in accordance with a case plan or court order, or when the removal is demonstrably in the best interests of the child.

8. If a child must leave the caregiver's home for one of the reasons stated in subparagraph 7., and in the absence of an unforeseeable emergency, the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child's developmental stage and psychological needs, ensures the child has all of his or her belongings, allows for a gradual transition from the caregiver's home, and, if possible, allows for continued contact with the caregiver after the child leaves.

9. When the plan for a child includes reunification, caregivers and agency staff must work together to assist the biological parents in improving their ability to care for and protect their children and to provide continuity for the child.

10. A caregiver must respect and support the child's ties to his or her biological family, including parents, siblings, and extended family members, and must assist the child in visitation and other forms of communication. The department, community-based care lead agency staff, and other agency staff must provide caregivers with the information, guidance, training, and support necessary for fulfilling this responsibility.

11. A caregiver must work in partnership with the department, community-based care lead agency staff, and other

agency staff to obtain and maintain records that are important to the child's well-being including, but not limited to, child resource records, medical records, school records, photographs, and records of special events and achievements.

12. A caregiver must effectively advocate for a child in his or her care with the child welfare system, the court, and community agencies, including schools, child care providers, health and mental health providers, and employers. The department, community-based care lead agency staff, and other agency staff must support a caregiver in effectively advocating for a child and may not retaliate against the caregiver as a result of this advocacy.

13. A caregiver must be as fully involved in the child's medical, psychological, and dental care as he or she would be for his or her biological child. Agency staff must support and facilitate such participation. Caregivers, the department, community-based care lead agency staff, and other agency staff must share information with each other about the child's health and well-being.

14. A caregiver must support a child's school success, including, when possible, maintaining school stability by participating in school activities and meetings, including individual education plan meetings; assisting with school assignments; supporting tutoring programs; meeting with teachers and working with an educational surrogate, if one has been appointed; and encouraging the child's participation in extracurricular activities. Agency staff must facilitate this participation and must be kept informed of the child's progress and needs.

15. Caseworkers and caseworker supervisors must mediate disagreements that occur between foster parents and birth parents.

(c) *Residential group homes.*—All caregivers employed by residential group homes must meet the same education, training, and background and other screening requirements as foster parents and must adhere to the requirements in paragraph (b).

(3) RULEMAKING.—The department shall adopt by rule procedures to administer this section.

Section 11. Section 409.145, Florida Statutes, is amended to read:

409.145 Care of children; ~~quality parenting;~~ "reasonable and prudent parent" standard.—The child welfare system of the department shall operate as a coordinated community-based system of care which empowers all caregivers for children in foster care to provide quality parenting, including approving or disapproving a child's participation in activities based on the caregiver's assessment using the "reasonable and prudent parent" standard.

(1) SYSTEM OF CARE.—The department shall develop, implement, and administer a coordinated community-based system of care for children who are found to be dependent and their families. This system of care must be directed toward the following goals:

(a) Prevention of separation of children from their families.

(b) Intervention to allow children to remain safely in their own homes.

(c) Reunification of families who have had children removed

from their care.

(d) Safety for children who are separated from their families by providing alternative emergency or longer-term parenting arrangements.

(e) Focus on the well-being of children through emphasis on maintaining educational stability and providing timely health care.

(f) Permanency for children for whom reunification with their families is not possible or is not in the best interest of the child.

(g) The transition to independence and self-sufficiency for older children who remain in foster care through adolescence.

~~(2) QUALITY PARENTING. A child in foster care shall be placed only with a caregiver who has the ability to care for the child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion and ethnicity, special physical or psychological needs, any circumstances unique to the child, and family relationships. The department, the community-based care lead agency, and other agencies shall provide such caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.~~

~~(a) *Roles and responsibilities of caregivers.*—A caregiver shall:~~

~~1. Participate in developing the case plan for the child and his or her family and work with others involved in his or her care to implement this plan. This participation includes the caregiver's involvement in all team meetings or court hearings~~

~~related to the child's care.~~

~~2. Complete all training needed to improve skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home, to meet the child's special needs, and to work effectively with child welfare agencies, the court, the schools, and other community and governmental agencies.~~

~~3. Respect and support the child's ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication.~~

~~4. Effectively advocate for the child in the caregiver's care with the child welfare system, the court, and community agencies, including the school, child care, health and mental health providers, and employers.~~

~~5. Participate fully in the child's medical, psychological, and dental care as the caregiver would for his or her biological child.~~

~~6. Support the child's educational success by participating in activities and meetings associated with the child's school or other educational setting, including Individual Education Plan meetings and meetings with an educational surrogate if one has been appointed, assisting with assignments, supporting tutoring programs, and encouraging the child's participation in extracurricular activities.~~

~~a. Maintaining educational stability for a child while in out-of-home care by allowing the child to remain in the school or educational setting that he or she attended before entry into out of home care is the first priority, unless not in the best interest of the child.~~

~~b. If it is not in the best interest of the child to remain in his or her school or educational setting upon entry into out-of-home care, the caregiver must work with the case manager, guardian ad litem, teachers and guidance counselors, and educational surrogate if one has been appointed to determine the best educational setting for the child. Such setting may include a public school that is not the school of origin, a private school pursuant to s. 1002.42, a virtual instruction program pursuant to s. 1002.45, or a home education program pursuant to s. 1002.41.~~

~~7. Work in partnership with other stakeholders to obtain and maintain records that are important to the child's well-being, including child resource records, medical records, school records, photographs, and records of special events and achievements.~~

~~8. Ensure that the child in the caregiver's care who is between 13 and 17 years of age learns and masters independent living skills.~~

~~9. Ensure that the child in the caregiver's care is aware of the requirements and benefits of the Road-to-Independence Program.~~

~~10. Work to enable the child in the caregiver's care to establish and maintain naturally occurring mentoring relationships.~~

~~(b) *Roles and responsibilities of the department, the community-based care lead agency, and other agency staff.* The department, the community based care lead agency, and other agency staff shall:~~

~~1. Include a caregiver in the development and~~

~~implementation of the case plan for the child and his or her family. The caregiver shall be authorized to participate in all team meetings or court hearings related to the child's care and future plans. The caregiver's participation shall be facilitated through timely notification, an inclusive process, and alternative methods for participation for a caregiver who cannot be physically present.~~

~~2. Develop and make available to the caregiver the information, services, training, and support that the caregiver needs to improve his or her skills in parenting children who have experienced trauma due to neglect, abuse, or separation from home, to meet these children's special needs, and to advocate effectively with child welfare agencies, the courts, schools, and other community and governmental agencies.~~

~~3. Provide the caregiver with all information related to services and other benefits that are available to the child.~~

~~4. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.~~

~~(c) *Transitions.*—~~

~~1. Once a caregiver accepts the responsibility of caring for a child, the child will be removed from the home of that caregiver only if:~~

~~a. The caregiver is clearly unable to safely or legally care for the child;~~

~~b. The child and his or her biological family are reunified;~~

~~c. The child is being placed in a legally permanent home pursuant to the case plan or a court order; or~~

~~d. The removal is demonstrably in the child's best interest.~~

~~2. In the absence of an emergency, if a child leaves the caregiver's home for a reason provided under subparagraph 1., the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child's developmental stage and psychological needs, ensures the child has all of his or her belongings, allows for a gradual transition from the caregiver's home and, if possible, for continued contact with the caregiver after the child leaves.~~

~~(d) *Information sharing.* Whenever a foster home or residential group home assumes responsibility for the care of a child, the department and any additional providers shall make available to the caregiver as soon as is practicable all relevant information concerning the child. Records and information that are required to be shared with caregivers include, but are not limited to:~~

~~1. Medical, dental, psychological, psychiatric, and behavioral history, as well as ongoing evaluation or treatment needs;~~

~~2. School records;~~

~~3. Copies of his or her birth certificate and, if appropriate, immigration status documents;~~

~~4. Consents signed by parents;~~

~~5. Comprehensive behavioral assessments and other social assessments;~~

~~6. Court orders;~~

~~7. Visitation and case plans;~~

~~8. Guardian ad litem reports;~~

~~9. Staffing forms; and~~

~~10. Judicial or citizen review panel reports and attachments filed with the court, except confidential medical, psychiatric, and psychological information regarding any party or participant other than the child.~~

~~(c) *Caregivers employed by residential group homes.*—All caregivers in residential group homes shall meet the same education, training, and background and other screening requirements as foster parents.~~

(2)~~(3)~~ REASONABLE AND PRUDENT PARENT STANDARD.—

(a) *Definitions.*—As used in this subsection, the term:

1. "Age-appropriate" means an activity or item that is generally accepted as suitable for a child of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity which is typical for an age or age group.

2. "Caregiver" means a person with whom the child is placed in out-of-home care, or a designated official for a group care facility licensed by the department under s. 409.175.

3. "Reasonable and prudent parent" standard means the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in extracurricular, enrichment, and social activities. This standard is characterized by careful and thoughtful parental decisionmaking that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

(b) *Application of standard of care.*—

1. Every child who comes into out-of-home care pursuant to this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

2. Each caregiver shall use the reasonable and prudent parent standard in determining whether to give permission for a child living in out-of-home care to participate in extracurricular, enrichment, or social activities. When using the reasonable and prudent parent standard, the caregiver must consider:

a. The child's age, maturity, and developmental level to maintain the overall health and safety of the child.

b. The potential risk factors and the appropriateness of the extracurricular, enrichment, or social activity.

c. The best interest of the child, based on information known by the caregiver.

d. The importance of encouraging the child's emotional and developmental growth.

e. The importance of providing the child with the most family-like living experience possible.

f. The behavioral history of the child and the child's ability to safely participate in the proposed activity.

(c) *Verification of services delivered.*—The department and each community-based care lead agency shall verify that private agencies providing out-of-home care services to dependent children have policies in place which are consistent with this section and that these agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities.

(d) *Limitation of liability.*—A caregiver is not liable for

harm caused to a child who participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with the reasonable and prudent parent standard. This paragraph may not be interpreted as removing or limiting any existing liability protection afforded by law.

(3) ~~(4)~~ FOSTER CARE ROOM AND BOARD RATES.—

(a) Effective July 1, 2018, room and board rates shall be paid to foster parents as follows:

Monthly Foster Care Rate

0-5 Years Age	6-12 Years Age	13-21 Years Age
$457.95	$469.68	$549.74

(b) Each January, foster parents shall receive an annual cost of living increase. The department shall calculate the new room and board rate increase equal to the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, not seasonally adjusted, or successor reports, for the preceding December compared to the prior December as initially reported by the United States Department of Labor, Bureau of Labor Statistics. The department shall make available the adjusted room and board rates annually.

(c) Effective July 1, 2019, foster parents of level I family foster homes, as defined in s. 409.175(5)(a) shall receive a room and board rate of $333.

(d) Effective July 1, 2019, the foster care room and board rate for level II family foster homes as defined in s. 409.175(5)(a) shall be the same as the new rate established for family foster homes as of January 1, 2019.

(e) Effective January 1, 2020, paragraph (b) shall only apply to level II through level V family foster homes, as defined in s. 409.175(5)(a).

(f) The amount of the monthly foster care room and board rate may be increased upon agreement among the department, the community-based care lead agency, and the foster parent.

(g) From July 1, 2018, through June 30, 2019, community-based care lead agencies providing care under contract with the department shall pay a supplemental room and board payment to foster care parents of all family foster homes, on a per-child basis, for providing independent life skills and normalcy supports to children who are 13 through 17 years of age placed in their care. The supplemental payment shall be paid monthly to the foster care parents in addition to the current monthly room and board rate payment. The supplemental monthly payment shall be based on 10 percent of the monthly room and board rate for children 13 through 21 years of age as provided under this section and adjusted annually. Effective July 1, 2019, such supplemental payments shall only be paid to foster parents of level II through level V family foster homes.

(4) ~~(5)~~ RULEMAKING.—The department shall adopt by rule procedures to administer this section.

Section 12. Paragraph (b) of subsection (6) of section 409.175, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.—

(6)

(b) Upon application for licensure, the department shall conduct a licensing study based on its licensing rules; shall inspect the home or the agency and the records, including financial records, of the applicant or agency; and shall interview the applicant. The department may authorize a licensed child-placing agency to conduct the licensing study of a family foster home to be used exclusively by that agency and to verify to the department that the home meets the licensing requirements established by the department. A licensing study of a family foster home must be completed by the department or an authorized licensed child-placing agency within 30 days of initiation. The department shall post on its website a list of the agencies authorized to conduct such studies.

1. The complete application file shall be submitted in accordance with the traditional or attestation model for licensure as prescribed in rule. In addition to other required documentation, a traditional licensing application file must include a completed licensing study and verification of background screening requirements.

2. The department regional licensing authority shall ensure that the licensing application file is complete and that all licensing requirements are met for the issuance of the license. If the child-placing agency is contracted with a community-based care lead agency, the licensing application file must contain documentation of a review by the community-based care lead

agency and the regional licensing authority and a recommendation for approval or denial by the community-based care lead agency ~~Upon certification by a licensed child-placing agency that a family foster home meets the licensing requirements and upon receipt of a letter from a community-based care lead agency in the service area where the home will be licensed which indicates that the family foster home meets the criteria established by the lead agency, the department shall issue the license. A letter from the lead agency is not required if the lead agency where the proposed home is located is directly supervising foster homes in the same service area.~~

3. An application file must be approved or denied within 10 business days after receipt by the regional licensing authority. If the application file is approved, a license must be issued to the applicant. The must shall include the name and address of the caregiver, the name of the supervising agency, the licensed capacity, and the dates for which the license is valid. The department regional managing director or designee within upper level management shall sign the license. Any limitations must be displayed on the license.

4. The regional licensing authority shall provide a copy of the license to the community-based care lead agency or supervising agency. The community-based care lead agency or supervising agency shall ensure that the license is sent to the foster parent.

(d) The department shall issue a determination regarding an application for a family foster home license within 100 days of completion of orientation as provided in s. 409.175(14)(b)1. Licenses that require additional certifications pursuant to s.

409.175(5)(a) may be given additional time to issue a determination.

Section 13. Paragraph (j) of subsection (1) of section 409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(j) May subcontract for the provision of services required by the contract with the lead agency and the department; however, the subcontracts must specify how the provider will contribute to the lead agency meeting the performance standards established pursuant to the child welfare results-oriented accountability system required by s. 409.997. The lead agency shall directly provide no more than 35 percent of all child welfare services provided unless it can demonstrate a need, within the lead agency's geographic service area, to exceed this threshold. The local community alliance in the geographic service area in which the lead agency is seeking to exceed the threshold shall review the lead agency's justification for need and recommend to the department whether the department should approve or deny the lead agency's request for an exemption from the services threshold. If there is not a community alliance operating in the geographic service area in which the lead agency is seeking to exceed the threshold, such review and recommendation shall be made by representatives of local stakeholders, including at least one representative from each of the following:

1. The department.

2. The county government.

3. The school district.

4. The county United Way.

5. The county sheriff's office.

6. The circuit court corresponding to the county.

7. The county children's board, if one exists.

Section 14. Paragraph (b) of subsection (7) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed pursuant to s. 409.175 and is named in any capacity in three or more reports within a 5-year period, the department may review all reports for the purposes of the employment screening required pursuant to s. 409.1415(2)(c) ~~s. 409.145(2)(c)~~.

Section 15. Paragraph (d) of subsection (5) of section 39.6225, Florida Statutes, is amended to read:

39.6225 Guardianship Assistance Program.—

(5) A guardian with an application approved pursuant to subsection (2) who is caring for a child placed with the guardian by the court pursuant to this part may receive

guardianship assistance payments based on the following criteria:

(d) The department shall provide guardianship assistance payments in the amount of $4,000 annually, paid on a monthly basis, or in an amount other than $4,000 annually as determined by the guardian and the department and memorialized in a written agreement between the guardian and the department. The agreement shall take into consideration the circumstances of the guardian and the needs of the child. Changes may not be made without the concurrence of the guardian. However, in no case shall the amount of the monthly payment exceed the foster care maintenance payment that would have been paid during the same period if the child had been in licensed care at his or her designated level of care at the rate established in s. 409.145(3) ~~s. 409.145(4)~~.

Section 16. Paragraph (b) of subsection (5) of section 393.065, Florida Statutes, is amended to read:

393.065 Application and eligibility determination.—

(5) The agency shall assign and provide priority to clients waiting for waiver services in the following order:

(b) Category 2, which includes individuals on the waiting list who are:

1. From the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either:

a. Transitioning out of the child welfare system at the finalization of an adoption, a reunification with family members, a permanent placement with a relative, or a guardianship with a nonrelative; or

b. At least 18 years but not yet 22 years of age and who

need both waiver services and extended foster care services; or

2. At least 18 years but not yet 22 years of age and who withdrew consent pursuant to s. 39.6251(5)(c) to remain in the extended foster care system.

For individuals who are at least 18 years but not yet 22 years of age and who are eligible under sub-subparagraph 1.b., the agency shall provide waiver services, including residential habilitation, and the community-based care lead agency shall fund room and board at the rate established in s. 409.145(3) ~~s. 409.145(4)~~ and provide case management and related services as defined in s. 409.986(3)(e). Individuals may receive both waiver services and services under s. 39.6251. Services may not duplicate services available through the Medicaid state plan.

Within categories 3, 4, 5, 6, and 7, the agency shall maintain a waiting list of clients placed in the order of the date that the client is determined eligible for waiver services.

Section 17. Paragraph (b) of subsection (2) of section 409.1451, Florida Statutes, is amended to read:

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

(b) The amount of the financial assistance shall be as follows:

1. For a young adult who does not remain in foster care and is attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly.

2. For a young adult who remains in foster care, is attending a postsecondary school, as provided in s. 1009.533,

and continues to reside in a licensed foster home, the amount is the established room and board rate for foster parents. This takes the place of the payment provided for in s. 409.145(3) ~~s. 409.145(4)~~.

3. For a young adult who remains in foster care, but temporarily resides away from a licensed foster home for purposes of attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly. This takes the place of the payment provided for in s. 409.145(3) ~~s. 409.145(4)~~.

4. For a young adult who remains in foster care, is attending a postsecondary school as provided in s. 1009.533, and continues to reside in a licensed group home, the amount is negotiated between the community-based care lead agency and the licensed group home provider.

5. For a young adult who remains in foster care, but temporarily resides away from a licensed group home for purposes of attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly. This takes the place of a negotiated room and board rate.

6. A young adult is eligible to receive financial assistance during the months when he or she is enrolled in a postsecondary educational institution.

Section 18. This act shall take effect July 1, 2020.

The Florida Senate

Committee Agenda Request

To: Senator Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 31st, 2020

I respectfully request that **Senate Bill 1324**, relating to **Child Welfare**, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Wilton Simpson
Florida Senate, District 10

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/2020
Meeting Date

CS/SB 1324
Bill Number (if applicable)

336202
Amendment Barcode (if applicable)

Topic Child welfare

Name Lisa Kiel

Job Title State Courts Administrator

Address 500 South Duval Street
Street

Tallahassee FL 32399
City *State* *Zip*

Phone 850-922-5081

Email KielL@flcourts.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing State Courts System

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)

2/20/2020
Meeting Date

CS/SB 1324
Bill Number (if applicable)

Topic Child welfare

Amendment Barcode (if applicable)

Name Lisa Kiel

Job Title State Courts Administrator

Address 500 South Duval Street
Street

Phone 850-922-5081

Tallahassee FL 32399
City *State* *Zip*

Email KielL@flcourts.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing State Courts System

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)

2/20/20
Meeting Date

1324
Bill Number (if applicable)

Topic ~~[redacted]~~ Child Welfare

Amendment Barcode (if applicable)

Name Ashlee Tising

Job Title Public Policy Consultant

Address 106 East College Avenue, Ste 200
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone 850-425-1671

Email Ashlee.Tising@akerman.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Big Bend Advocacy Center

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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 1326
INTRODUCER:	Appropriations Committee and Senator Simpson
SUBJECT:	Department of Children and Families
DATE:	March 2, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	**Favorable**
2.	Sneed	Kidd	AHS	**Recommend: Favorable**
3.	Sneed	Kynoch	AP	**Fav/CS**

I. Summary:

CS/SB 1326, also referred to as the "State of Hope Act," makes several changes to the child welfare programs administered by the Department of Children and Families (DCF or department) to promote accountability and improve program performance. The bill:

- Requires local community alliances to include a representative of a faith-based organization and encourages the involvement of community-based and faith-based organizations in the community system of care. Requires the community-based care lead agencies (CBCs) to assign an employee to serve as a liaison to these organizations.
- Establishes the Office of Quality within the DCF to measure and monitor the performance of internal and contracted operations and recommend initiatives to correct deficiencies.
- Requires the DCF to implement programs to prevent and mitigate the impact of secondary traumatic stress and burnout among child protective investigators (CPIs).
- Revises the CBC funding formula for the allocation of new funding for core services.
- Requires the DCF to report the difference between the CBC's funding levels and optimal funding levels. Additionally, it requires the DCF to take these differences into account when allocating risk pool funding to CBCs.
- Authorizes the DCF to contract for children's legal services (CLS) and requires oversight of CLS attorneys under contract with the DCF.
- Requires the DCF to develop a statewide accountability system for child welfare.
- Requires the DCF to implement two 2-year pilot projects to improve child welfare services in the Sixth and Thirteenth judicial circuits.
- Expands the functions of the Florida Institute for Child Welfare (FICW) to inform, train, and engage social work students for a successful career in child welfare and directs the FICW to work with the FSU College of Social Work to redesign the social work curriculum to enable students to learn from real-world child welfare cases.
- Directs the DCF, in collaboration with the FICW, to develop an expanded career ladder for CPIs.

- Directs the FICW, subject to an appropriation, to design and implement a career long professional development curriculum for child welfare professionals by July 1, 2021.

The bill appropriates to the DCF $8,235,052 of recurring funds from the General Revenue Fund for the judicial circuit pilot projects, and $5,350,000 of recurring funds from the General Revenue Fund and associated salary rate for up to 125 currently authorized positions for the establishment of the Office of Quality.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline (hotline) and child protective investigations. The Department of Children and Families (DCF or department) and community-based care lead agencies (CBCs) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

The DCF's practice model is based on the safety of the child within his or her home, using in-home services such as parent coaching and counseling to maintain and strengthen that child's natural supports in his or her environment. The DCF contracts for case management, out-of-home services, and related services with CBCs. The transition to outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.

The DCF remains responsible for a number of child welfare functions, including operating the hotline, performing child protective investigations, and providing children's legal services.[1] Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.[2]

Community Alliances

In 2000, the Legislature amended s. 20.19, F.S., to include community alliances as an element of the state's community-based care child welfare system. Section 20.19(5), F.S., requires DCF to work with local communities to establish a community alliance or similar group of stakeholders, community leaders, client representatives and funders of human services in each county to provide a focal point for community participation and governance of community-based services.

The community alliances:

- Plan resource utilization in the community, including DCF and local funding;

[1] OPPAGA, report 06-50
[2] *Id.*

- Assess needs and establish community priorities for service delivery;
- Determine community outcome goals to supplement state-required outcomes;
- Serve as a catalyst for community resource development;
- Provide community education and advocacy on delivery of services; and
- Promote prevention and early intervention services.[3]

Initially, community alliances must include members from:
- DCF;
- County government;
- The school district;
- The county United Way;
- The county sheriff's office;
- The circuit court corresponding to the county; and
- The county children's board, if one exists.[4]

After the initial meeting of the community alliance, it may increase its membership to include the state attorney for the judicial circuit, the public defender, and other individuals who represent funding organizations, are community leaders, have knowledge of community-based service issues, or represent perspectives that will enable them to accomplish the duties of the community alliances.[5]

The community alliances are a central point for community input and collaboration and build on the community-based care model of building partnerships in the community to affect the outcomes, quality effectiveness, and efficiency of services. The role of the community alliances is to encourage community involvement to influence outcomes for children and their families.[6]

Community-Based and Faith-Based Organizations

Community-based and faith-based organizations have a history of providing assistance for those in need in their local communities. Florida has recognized these organizations could assist the work of the state. In 2004, Governor Bush signed an Executive Order[7] creating the Governor's Faith-Based and Community-based Advisory Board, and, in 2006, the Legislature codified the advisory board in statute as the Florida Faith-based and Community-based Advisory Council (council). The purpose of the council is to advise the Governor and the Legislature on policies, priorities, and objectives for the state's effort "to enlist, equip, empower, and expand the work of faith-based, volunteer, and other community organizations to the full extent permitted by law."[8] Past activities of the council have included promoting Florida's efforts to strengthen systems to better recruit families to meet the needs of children and youth awaiting adoption by providing

[3] Section 20.19(5)(b), F.S.
[4] Section 20.19(5)(d), F.S.
[5] *Id.*
[6] Department of Children and Families, *Community Alliances Resource Handbook*, (December 2000).
[7] Executive Order No. 04-245, November 18.2004. This Executive Order was amended by Executive Order No. 05-24, February 1, 2005, which incorporated by reference all of the first order, extended the time for a written report of the advisory board, and provided a January 1, 2007, expiration date for the order.
[8] Section 14.31, F.S.

information to and assisting faith-based and community-based groups in their efforts to match families with children and youth awaiting adoption.

Currently, the community alliances are not statutorily mandated to identify existing programs and services delivered by community-based and faith-based organizations, nor are they encouraged to develop and make available such programs and services by these organizations. Additionally, current law does not mandate that the initial membership of the community alliances include a representative of a faith-based organization involved in providing services to strengthen families and protect child-welfare.

Child Protective Investigations

A child protective investigation begins with a report by any person to the Florida Abuse Hotline. The state is required to maintain a 24/hour, 7/day capacity for receiving reports of maltreatments. The reports are sent out to child protective investigators (CPIs) across the state to investigate.

The CPI receiving the report is most commonly a department employee, but in seven counties the local sheriff's office performs the investigative function. There are currently 1,789 positions within the department and Sheriff's Offices to conduct child abuse investigations.[9]

Court hearings are required whenever a child is removed from his or her home. The attorneys in these cases are either department employees or employees of the Attorney General's Office under contract to the department or, in one case, the state attorney's office in the 6th circuit (Pinellas and Pasco Counties).

The lead agencies and their subcontractors are the primary providers of services to children and families in the child welfare system. There are currently 17 CBCs with contracts covering all 20 judicial circuits.[10] The CBCs and their subcontractors employ case managers to oversee the provision of services to children in the child welfare system. Many of the services are not directly provided by the CBCs or the case management subcontractors, but are provided by health care, substance abuse, mental health, and other specialized community based providers.

Child Protective Investigators

Career Advancement

The DCF attempted to create a type of career advancement incentive in 2017 with the implementation of the Child Protection Glide Path. The Glide Path was to increase recruitment and retention of critical staff positions by allowing CPIs to demonstrate specific skills and core competencies associated with their class title to achieve a competency-based increase in salary.[11]

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[9] The Department of Children and Families, SB 1326 Bill Analysis, January 14, 2020. On file with the Senate Committee on Children, Families and Elder Affairs.

[10] The Department of Children and Families website, available at: https://www.myflfamilies.com/service-programs/community-based-care/docs/lead_agency_map.pdf (last visited January 17, 2020).

[11] Florida Department of Children and Families, *Child Protective Investigator and Child Protective Supervisor Educational Qualifications, Turnover, and Working Conditions Status Report*, October 1, 2019, available at: http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/CPI%20SuperCPI%20and%20CPI%20Supervisor%20%20Workforce%202019%20.docx.pdf (last visited January 26, 2020).

The Child Protection Glide Path divided CPI positions into five class titles with CPI class title having three salary levels based on skills and core competencies achieved. However, in June 2019, the DCF discontinued the Child Protection Glide Path for a new Career Path initiative designed to increase employee satisfaction and retention.

Education Qualifications

In 2014, the Legislature passed a bill mandating the DCF to recruit qualified professional staff and required DCF to make every effort to recruit and hire social workers. The DCF was required to set a goal of having at least half of all CPIs and CPI supervisors with a bachelor's degree or master's degree in social work from a college or university social work program accredited by the Council on Social Work Education by July 1, 2019. Florida has made little progress in achieving this goal. In 2018, 15 percent of CPIs held a degree in social work; that decreased to 13 percent at June 30, 2019.[12]

Turnover and Vacancies

The DCF has had a high turnover for CPIs for a number of years. The turnover rate for all CPI positions during the past two years has averaged around 37 percent,[13] with the highest turnover occurring in entry-level CPI positions with an average turnover rate of 48 percent. High staff turnover puts vulnerable children at risk for recurrence of abuse, neglect, or abandonment and hinders timely intervention and permanency. When investigator positions are vacant or newly-hired investigators have reduced caseloads, the remaining staff must carry higher caseloads, which leads to burnout from workload and reduces the time and attention the CPI can provide to each case. Additionally, staff turnover costs the state money because of the associated expenses of training and onboarding new staff.

Sheriff's Offices that Conduct Child Protective Investigations

The DCF is authorized to enter into contracts with county sheriffs for the provision of child protective investigations.[14] Sheriff's offices in seven counties are currently responsible for performing child protective investigations: Broward, Hillsborough, Manatee, Pasco, Pinellas, Seminole, and Walton. The sheriffs are funded by the DCF through grants. While s. 39.3065, F.S., specifically tasks four sheriff's offices to provide these services, all seven receive funding through the General Appropriations Act (GAA) to conduct child protective investigations. For the 2019-2020 fiscal year, a total of $57,673,013 was appropriated to the DCF to provide for the grants to the seven county sheriff's offices.[15]

DCF has limited involvement in the quality assurance process for sheriff-provided child investigative services, despite DCF remaining ultimately responsible for that function. For instance, the sheriff's offices performing child protective investigations themselves report

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[12] Florida Department of Children and Families, Office of Child Welfare, *Child Protective Investigators and Supervisors with a Social Work Degree – Statewide*, available at: https://www.myflfamilies.com/programs/childwelfare/dashboard/education.shtml (last visited Jan. 27, 2020).
[13] *Supra* note 11.
[14] Section 39.3065, F.S.
[15] Specific Appropriation 315, General Appropriations Act, Chapter 2019-115, Laws of Fla.

metrics and provide data through the central system of record.[16] While s. 39.3065(3)(d), F.S., requires a peer review for the sheriffs' program performance evaluation that involves both DCF and the sheriffs, the team's membership is largely sheriff's office representatives (composed of five or six sheriff's representatives and two DCF representatives[17]). This peer review team identifies closed investigations for the review and develops the approach for the review, which assesses compliance with statutory requirements, quality of investigations, safety decisions, and safety actions implemented throughout the life of the case.[18]

Although sheriffs providing child protective investigations are required by the grant agreement to act in accordance with state and federal law, no statutory mandate imposes the same procedures, policies, and outcomes on the sheriffs as are imposed on the DCF's CPIs. The DCF tracks the work of its CPIs through a CPI scorecard on its Child Welfare Dashboard.[19] The CPI scorecard is used to measure the standards of the child protective investigations across the state, considering six measures[20] to ensure investigations are providing successful outcomes for children and families.[21] The information on the sheriffs providing child protective investigations is limited on DCF's CPI scorecard due to limitations of data collection specified in their grant agreements.[22]

Secondary Traumatic Stress in Child Welfare Professionals

Secondary traumatic stress and burnout from job-related activities is a leading cause for high turnover in the child welfare profession. Secondary traumatic stress is the emotional duress when an individual hears about firsthand trauma in the experiences of another.[23] Child welfare professionals engage daily with people who have experienced trauma. Case managers and CPIs hear about the abuse and neglect children have suffered, and the act of listening to traumatic stories can take an emotional toll that compromises a worker's professional and personal life.[24] Given the nature of the work in which child welfare professionals engage, they are at a high risk of developing secondary traumatic stress. Studies have shown that secondary traumatic stress predicts whether a professional will leave the field for another line of work.

[16] Supra note 9.
[17] Florida Department of Children and Families, *Florida Sheriffs Performing Child Protective Investigations, Annual Program Performance Evaluation Report, Fiscal Year 2107-2018*, available at: https://www.myflfamilies.com/service-programs/child-welfare/docs/2018LMRs/SO%20Annual%20Peer%20Review%20DCF%20Report%202017_2018.pdf (last visited January 26. 2020).
[18] *Id.*
[19] Florida Department of Children and Families, Office of Child Welfare, *CPI Scorecard*, available at: https://www.myflfamilies.com/programs/childwelfare/dashboard/cpi-scorecard.shtml (last visited January 24, 2020).
[20] These measures include alleged victims seen within 24 hours, child protective investigations and supervisors with social work degrees, child protective investigators with more than 20 open investigations, investigations commenced within 24 hours, investigations that had an initial supervisory consultation within 5 days, and retention of child protective investigators.
[21] *Supra* note 19.
[22] *Id.*
[23] The National Child Traumatic Stress Network, *Secondary Traumatic Stress: A Fact Sheet for Child-Serving Professionals*, https://www.nctsn.org/sites/default/files/resources/fact-sheet/secondary_traumatic_stress_child_serving_professionals.pdf (last visited January. 24, 2020).
[24] *Id.*

Children's Legal Services

DCF directly or through contract provides attorneys to prepare and present cases in dependency court and ensures attorneys provide the court with adequate information for informed decision-making in dependency cases.[25] Children's Legal Services (CLS) represents the state during dependency cases governed by ch. 39, F.S. CLS attorneys advocate for the safety, well-being, and permanency of Florida's abused, abandoned, and neglected children. CLS attorneys often become involved in the case when a CPI seeks to remove a child from an unsafe home. The attorneys work with case management services to ensure families receive necessary services to alleviate unsafe conditions in the home so a child can be reunited with his or her parents. CLS attorneys carry multiple cases and must ensure state and federal legal requirements are met.[26]

Section 409.996(17), F.S., directs the DCF to contract with the state attorney in the Sixth Judicial Circuit for the provision of children's legal services.[27] The Attorney General provides children's legal services in Hillsborough and Broward Counties.[28] Currently, the DCF provides minimal qualitative oversight of contracted attorneys that deliver children's legal services.[29]

Child Welfare Accountability

Section 409.996 (18), F.S., requires the department, in consultation with the CBCs, to establish a quality assurance program for contracted services to dependent children. The quality assurance program must be based on standards established by federal and state law and national accrediting organizations.

Section 409.997(2), F.S., established the Child Welfare Results-Oriented Accountability Program. The department, the CBCs, and the CBC subcontractors share the responsibility for achieving the outcome goals specified in s. 409.986(2), F.S. The purpose of the results-oriented accountability program is to monitor and measure the use of resources, the quality and amount of services provided, and child and family outcomes. The program includes data analysis, research review, and evaluation. The program is to produce an assessment of individual entities' performance, as well as the performance of groups of entities working together on a local, regional, and statewide basis to provide an integrated system of care. Data analyzed and communicated through the accountability program is to inform the department's development and maintenance of an inclusive, interactive, and evidence-supported program of quality improvement that promotes individual skill building as well as organizational learning.

[25] Section 409.996, F.S.
[26] Florida Department of Children and Families, *Children's Legal Services*, available at: https://www.myflfamilies.com/service-programs/childrens-legal-services/about-us.shtml (last visited January 25, 2020).
[27] *Id.*
[28] Florida Department of Children and Families, *A Comprehensive, Multi-Year Review of the Revenues, Expenditures, and Financial Position of All Community-Based Care Lead Agencies with System of Care Analysis*, available at: http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/Comprehensive_Review_of_Revenues_Expenditures_...pdf (last visited January 28, 2020).
[29] *Supra* note 19.

Community Based Care Funding Formula

Section 409.991, F.S., provides the basis for allocating funds for CBCs and defines the differences between "core services funds" and other specific appropriations that may be provided to CBCs. The core services funds are currently allocated through the equity allocation model.[30] The law defines the three components of the model: proportion of children in the population, proportion of Hotline workload, and proportion of children in care. This method supports per child funding inequities by establishing that 100 percent of recurring core funding is based upon the fiscal year 2014-2015 recurring base of core funding.[31] The equity allocation model is only applied to new funding that is appropriated to the system of care. The statute further establishes that 70 percent of any new funding for the system of care is shared by all CBCs and 30 percent of any new funds will be allocated among CBCs funded below their equitable share.

Because the core services funding for each CBC was established based upon the total expenditures by the DCF when the CBCs were created, significant core funding inequities have been institutionalized into the system of care. Since 2006, the "per child in care funding" varies as much as 2:1, from the highest to lowest funded CBC. The lack of equitable funding has led to the creation of risk pool funding, contract amendments, and specific mid-year appropriations to address current year deficits in multiple CBCs. Over the last five fiscal years, the Legislature has appropriated an additional $95 million in nonrecurring funds, or about $19 million annually, to address these operational shortfalls. Additionally, when the DCF has reprocured services in these districts, more than half of the markets were essentially non-competitive. According to the DCF, in eight of the last 19 solicitations, only one provider bid on services for a district service area. These districts represent 52 percent of the population of Florida. The perceived underfunding of the CBCs has constrained the DCF's efforts to hold the CBCs accountable for performance and improvement, and to competitively procure for the best providers available.[32]

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work. The Legislature created the FICW to provide research and evaluation that contributes to a more sustainable, accountable, and effective child welfare system. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.[33] The FICW is required to:

- Maintain a program of research contributing to the scientific knowledge related to child safety, permanency, and child and family well-being.
- Advise the DCF and other organizations about scientific evidence regarding child welfare practice, as well as management practices and administrative processes.
- Assess performance of child welfare services based on specified outcome measures.
- Evaluate training requirements for the child welfare workforce and the effectiveness of training.

[30] Section 409.991(b), F.S.
[31] Department of Children and Families, SB 1326 Bill Analysis, January 14, 2020. On file with the Senate Committee on Children, Families and Elder Affairs.
[32] *Id.*
[33] Section 1004.615, F.S.

- Develop a program of training and consulting to assist organizations with employee retention.
- Identify and communicate effective policies and promising practices.
- Recommend improvements in the state's child welfare system.
- Submit annual reports to the Governor and Legislature.

The FICW sponsors and supports interdisciplinary research projects and program evaluation initiatives that contribute to a knowledge relevant to enhancing Florida's child welfare outcomes. Additionally, the FICW is tasked with establishing new partnerships and strengthening existing relationships with research and policymakers around the state through an affiliate network, CBCs, service providers, and other entities. The affiliate network is made up of 14 public and private universities with accredited degrees in social work.[34] In 2017, the FICW expanded its affiliate network to include research affiliates,[35] and there are now over 50 research faculty affiliates.[36]

III. Effect of Proposed Changes:

Section 1 amends s. 20.19, F.S., relating to local community alliances, to require community alliances to include a representative of a faith-based organization and encourage the development and availability of community-based and faith-based organizations in the community system of care. The bill also establishes the Office of Quality within the DCF. The purpose of the Office of Quality is to ensure the DCF and contract service providers meet the highest levels of performance standards. The Office will:

- Conduct ongoing quality assurance reviews of department programs and contract service providers, at least quarterly, using randomly selected cases.
- Strengthen the departments' data and its analytic capabilities to identify systemic strengths and deficiencies.
- Recommend initiatives to correct program and system deficiencies;
- Collaborate with the department's partners to improve quality, efficiency and effectiveness;
- Report any persistent failures by the department to meet performance standards and recommend corrective actions provided under the bill; and
- By December 1, report to the Governor and Legislature, for the preceding fiscal year which encompasses all legislatively mandated statewide reports required to be issued by the department.

Section 2 amends s. 402.402, F.S. relating to child protection and child welfare staff, including attorneys who handle child welfare cases, and requires the DCF to implement policies and programs that mitigate and prevent the effects of secondary traumatic stress and burnout among CPI staff, including:

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[34] Florida Institute for Child Welfare at Florida State University, *FY 2018-2019 Annual Report*, October 1, 2019, *available at:* https://issuu.com/fsuchildwelfare/docs/annual_report_2018-2019_final (last visited March 2, 2020).
[35] *Id.*
[36] Florida Institute for Child Welfare, *Affiliate Directory*, September 2019, *available at:* https://ficw.fsu.edu/affiliates (last visited March 2, 2020).

- Initiatives to encourage and inspire CPI staff, including recognizing their achievements on a recognition wall within their unit.
- Formal procedures for providing support to CPI staff after a critical incident has occurred such as a child fatality.
- Initial training upon appointment to a supervisory position and annual continuing education for supervisors on how to prevent secondary traumatic stress and burnout among their employees.
- Monitoring levels of secondary traumatic stress and burnout among individual employees.
- Ongoing training in self-care for all CPI staff.
- Report on CPI professional advancement in the department's annual required report on *Child Protective Investigators and Supervisors.*

The DCF is authorized to provide support programs such as formal peer counseling and other programs to reduce the effects of secondary traumatic stress and burnout among CPI staff.

The bill also requires the attorneys in the Sixth Judicial Circuit and the Attorney General's Office that provide children's legal services (CLS) in Hillsborough and Broward Counties to receive the same training within the first six months of employment as required of DCF-employed CLS attorneys.

Section 3 amends s. 409.988, relating to lead agency duties, requiring a CBC to identify an employee to serve as a liaison with the community alliance and community-based and faith based organizations interested in volunteering services or other assistance to the children and families served by the CBC.

Section 4 amends s. 409.991, F.S., relating to the allocation of funds for CBCs, requiring the DCF (unless otherwise specified in the General Appropriations Act), to allocate new funding received for CBC core services using an objective, workload-based methodology. The DCF may develop the methodology in rule. The purpose of developing the new methodology is to determine the optimal funding level for the CBCs by taking into account the following workload components:

- Prevention services;
- Client services;
- Licensed out-of-home care costs; and
- Staffing, by using a ratio for case managers compared to the caseload requirements specified in s. 20.19(4)(c)2., F.S.[37]

By using the new methodology the DCF will be able to compare the optimal funding level to the actual allocated funding for the most recent fiscal year and determine the percentage of optimal funding each CBC is receiving. The new methodology will allocate new core services funding in a manner inversely proportional to each CBCs optimal funding percentage.

[37] Section 20.19(4)(c)2., F.S., provides that case manager caseloads do not exceed the Child Welfare League Standards by more than two cases.

Additionally, the DCF must consider (unless otherwise specified in the General Appropriations Act), a CBC's funding level compared to its optimal funding level when allocating risk pool[38] funding.

A report is due from the DCF by November 1 of each year to the Governor and Legislature that:
- Includes the current funding level and the optimal funding level for each CBC.
- Identifies any CBC that is persistently funded at less than the optimal funding level.
- Provides recommended strategies to address the shortfall, including, but not limited to, business process redesign, the adoption of best practices, and requests for additional funding.

Section 5 amends s. 409.996, F.S., relating to the duties of the department in the community based care system for child welfare. The bill provides new accountability measures in the areas of the state where the department contracts for legal services for child welfare. The bill requires the contracted attorneys to use the Florida's Child Welfare Practice Model. Program performance evaluations are to be conducted on an ongoing basis using criteria developed by the department. The evaluation must be conducted by a team of peer reviewers and use a random sample of cases. The department must report each November 1 to the Governor and Legislature on the performance of contracted attorneys providing children's legal services on behalf of the department.

The bill also requires the DCF to develop a statewide accountability system based on measurable quality standards. The DCF must implement the accountability system by July 1, 2021. The system must:
- Assess the overall health of the child welfare system, by circuit, using a grading criteria established by the department.
- Include a quality measurement system with domains and clearly defined levels of quality that measures performance standards for CPIs, CBCs, and CLS services, using criteria established by the department. The criteria must address applicable federal- and state-mandated metrics.
- Align with the principles of the results-oriented accountability program established under s. 409.997, F.S.

The DCF and CBCs will use the information from the accountability system to improve service delivery. The department must report each December 1 to the Governor and Legislature on the overall health of the state's child welfare system. The DCF is provided rulemaking authority to implement the statewide accountability system.

Subject to an appropriation for the 2020-2021 and 2021-2022 fiscal years, the DCF will implement 2-year pilot projects in the Sixth (Pasco and Pinellas) and Thirteenth (Hillsborough) judicial circuits for the purpose of improving child welfare outcomes in these areas. To implement the pilot projects, the DCF must:
- Establish performance metrics and performance standards for the two CBCs.
- Provide incentive funds to the CBCs for these circuits if they exceed performance standards.
- Submit a report each year through June 30, 2022.

[38] Section 409.990, F.S.

The bill appropriates recurring funds to the DCF to provide for the incentive funding for these pilot projects.

Section 6 amends s. 1004.615, F.S., relating to the Florida Institute for Child Welfare (FICW), to expand the functions of the institute to inform, train, and engage social work students for a successful career in child welfare. The bill directs the FICW to work with the FSU College of Social Work to redesign the social work curriculum to enable students to learn from real-world child welfare cases. The bill also requires the DCF to work with the FICW to develop an expanded career ladder for CPIs. Additionally, subject to an appropriation, the FICW is required to develop, in collaboration with the DCF, the CBCs, case management service providers, and other child welfare stakeholders, a career long professional development curriculum for child welfare professionals by July 1, 2021.

Section 7 directs the DCF, in collaboration with the FICW, to develop an expanded career ladder for CPIs. The department must submit the career ladder proposal to the Governor and Legislature by November 1, 2020.

Section 8 appropriates recurring funds to the DCF from the General Revenue Fund of $8,235,052 for incentive funding for the pilot projects in the Sixth and Thirteenth judicial circuits. Additionally, the bill appropriates $5,350,000 to the department for the establishment of the Office of Quality. The bill authorizes additional salary rate of 2,907,885 to DCF and allows the department to reassign up to 125 currently authorized positions to implement the Office of Quality in accordance with the budget amendment provisions in ch. 216, F.S.

Section 9 names Sections 1, 2, and 3 in the bill the "State of Hope Act."

Section 10 provides the bill is effective 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.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CBCs will need to assign an employee to serve as a liaison to local community alliances and community-based and faith-based organizations to encourage involvement in the community system of care. The requirement is expected to have a minimal fiscal impact on the CBC expenditures.

C. Government Sector Impact:

The bill appropriates $8,235,052 in recurring funds from the General Revenue Fund to the DCF for the pilot projects for the Sixth and Thirteenth judicial circuits and $5,350,000 in recurring funds from the General Revenue Fund for the establishment of the Office of Quality. The bill also authorizes additional salary rate of 2,907,885 and allows the department to submit a budget amendment to reassign up to 125 currently authorized positions for the Office of Quality.

The bill expands the functions of the Florida Institute for Child Welfare (FICW) to inform, train, and engage social work students for a successful career in child welfare and directs the FICW to work with the FSU College of Social Work to redesign the social work curriculum to enable students to learn from real-world child welfare cases. The bill directs the FICW to collaborate with the DCF on the development of an expanded career ladder for CPIs.

Additionally, the bill directs the FICW, subject to an appropriation, to design and implement a career long professional development curriculum for child welfare professionals at all levels and from all disciplines by July 1, 2021. The cost for the FICW to develop and implement a social work training curriculum for all child welfare professionals is indeterminate, but potentially significant. The bill does not provide an appropriation to the FICW.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.19, 402.402, 409.988, 409.991, 409.996, and 1004.615.

IX. Additional Information:

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

CS by Appropriations on February 27, 2020:
The committee substitute:

- Removes the provision on the Differential Response initiative for child abuse reporting.
- Removes the requirement for sheriff offices to adopt the Child Welfare Practice Model and implement child abuse prevention plans.
- Removes the sections relating to behavioral health managing entities.
- Removes provisions relating to a grading system for the managing entities.
- Requires local community alliances to include a member of a faith-based organization and requires the community-based care lead agencies (CBCs) to assign an employee to serve as a liaison with community-based and faith-based organizations.
- Creates the "Office of Quality" rather than the "Office of Quality Assurance and Improvement" within the DCF and:
  - Removes the requirement for the Office to analyze DCF's compliance with state and federal laws and regulations, and
  - Requires the Office to report annually to the Governor and Legislature and attach all legislatively mandated statewide reports issued by the DCF for the prior fiscal year.
- Revises the CBC funding methodology for the allocation of new funding for core services. The bill directs the DCF to develop the methodology.
- Requires the DCF to compute the optimal funding levels for the CBCs based on the following workload components.
  - Prevention services,
  - Client services,
  - Licensed out-of-home care costs, and
  - Staffing costs.
- Directs the DCF to take into account whether a CBC is above or below the optimal funding amount when allocating the new funding. The new funding should be inversely proportional to the optimal funding level.
- Requires the DCF to report annually to the Governor and Legislature a comparison of CBC funding to optimal funding levels.
- Requires the DCF to take into account whether a CBC is above or below the optimal funding level when allocating risk pool funding.
- Requires the DCF to develop and implement a statewide accountability system by July 1, 2021.

- Creates child welfare performance incentive pilot projects for the CBCs serving the Sixth (Pinellas and Pasco) and Thirteenth (Hillsborough) Judicial Circuits. To implement the pilot projects which expire June 30, 2022, the DCF must:
  - Establish performance metrics and performance standards for the two CBCs.
  - Provide incentive funds to the CBCs in the pilot areas that exceed performance standards.
  - Report on the pilot projects each year.
- Provides that Sections 1, 2, and 3 of the bill may be cited as the "State of Hope Act."
- Changes the effective date of the bill to "upon becoming a law."

B. Amendments:

None.

835096

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/28/2020	.	
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The Committee on Appropriations (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (b), (d), and (e) of subsection (5) of section 20.19, Florida Statutes, are amended, and a new subsection (7) is added to that section, to read:

20.19 Department of Children and Families.—There is created a Department of Children and Families.

(5) COMMUNITY ALLIANCES.—

835096

(b) The duties of the community alliance include, but are not limited to:

1. Joint planning for resource utilization in the community, including resources appropriated to the department and any funds that local funding sources choose to provide.

2. Needs assessment and establishment of community priorities for service delivery.

3. Determining community outcome goals to supplement state-required outcomes.

4. Serving as a catalyst for community resource development, including, but not limited to, identifying existing programs and services delivered by and assistance available from community-based organizations and faith-based organizations, and encouraging the development and availability of such programs, services, and assistance by such organizations. The community alliance shall ensure that the community-based care lead agency is aware of such programs, services, and assistance and work to facilitate the lead agency's appropriate use of these resources.

5. Providing for community education and advocacy on issues related to delivery of services.

6. Promoting prevention and early intervention services.

(d) The ~~initial~~ membership of the community alliance in a county, at a minimum, must ~~shall~~ be composed of the following:

1. A representative from the department.

2. A representative from county government.

3. A representative from the school district.

4. A representative from the county United Way.

5. A representative from the county sheriff's office.

6. A representative from the circuit court corresponding to

the county.

7. A representative from the county children's board, if one exists.

8. A representative of a faith-based organization involved in efforts to prevent child maltreatment, strengthen families, or promote adoption.

(e) ~~At any time after the initial meeting of the community alliance,~~ The community alliance shall adopt bylaws and may increase the membership of the alliance to include the state attorney for the judicial circuit in which the community alliance is located, or his or her designee, the public defender for the judicial circuit in which the community alliance is located, or his or her designee, and other individuals and organizations who represent funding organizations, are community leaders, have knowledge of community-based service issues, or otherwise represent perspectives that will enable them to accomplish the duties listed in paragraph (b), if, in the judgment of the alliance, such change is necessary to adequately represent the diversity of the population within the community alliance service circuits.

(7) OFFICE OF QUALITY.—The department shall establish an enterprise wide Office of Quality to ensure that the department and contracted service providers meet the highest levels of performance standards.

(a) Duties of the office include, but are not limited to, all of the following:

1. Identifying performance standards and metrics for department programs and all other service providers, including, but not limited to, behavioral health managing entities,

community-based care lead agencies, and attorney services.

2. Conducting ongoing quality assurance reviews of department programs and contracted service providers on at least a quarterly basis using cases randomly selected by the department.

3. Strengthening the department's data and analytic capabilities to identify systemic strengths and deficiencies.

4. In consultation with the department's program offices, recommending unique and varied initiatives to correct programmatic and systemic deficiencies.

5. Collaborating and engaging partners of the department to improve service quality, efficiency, and effectiveness.

6. Reporting any persistent failure by the department or contracted providers to meet performance standards and recommending corrective actions to the secretary.

7. By each December 1, developing and submitting an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives for the preceding fiscal year which encompasses all legislatively mandated statewide reports required to be issued by the department.

(b) The department may adopt rules to administer this subsection.

Section 2. Section 409.991, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.991, F.S., for present text.)

409.991 Allocation of funds for community-based care lead agencies.—

(1) As used in this section, the term "core services funds"


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means all funds allocated to lead agencies operating under contract with the department pursuant to s. 409.987, with the following exceptions:

(a) Funds appropriated for independent living services;

(b) Funds appropriated for maintenance adoption subsidies;

(c) Funds allocated by the department for child protective investigative service training;

(d) Nonrecurring funds;

(e) Designated mental health wrap-around service funds;

(f) Funds for special projects for a designated lead agency; and

(g) Funds appropriated for the Guardianship Assistance Program established under s. 39.6225.

(2) The department shall use an objective, workload-based methodology to identify and report the optimal level of funding for each lead agency considering demand for each of the following:

(a) Prevention services;

(b) Client services;

(c) Licensed out-of-home care costs; and

(d) Staffing, using the ratio for case managers compared to the caseload requirements specified in s. 20.19(4)(c)2.

(3) The allocation of core services funds must be based on the following:

(a) The total optimal funding amount as determined by adding together the funding for prevention services, client services, licensed out-of-home care, and staffing.

(b) A comparison of the total optimal funding amount to the actual allocated funding for the most recent fiscal year to

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determine the percentage of optimal funding the lead agency is currently receiving.

(4) By November 1 of each year, the secretary must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes the current funding level of each lead agency based on the optimal funding level as determined by using each lead agency workload using the department's methodology. The report must identify any lead agency that is persistently funded at less than the optimal funding level and recommend strategies to address the shortfall including, but not limited to, business process redesign, the adoption of best practices, and requesting additional funding.

(5) The department may adopt rules to establish the optimal funding levels for lead agencies.

(6) Unless otherwise specified in the General Appropriations Act, the department shall allocate any new funding for core services, based on the department's methodology, to achieve optimal funding for all lead agencies inversely proportional to each lead agency optimal funding percentage.

(7) Unless otherwise specified in the General Appropriations Act, the department shall consider a lead agency's funding level compared to its optimal funding level when allocating funding from the risk pool, as provided in s. 409.990.

Section 3. Subsections (24) and (25) are added to section 409.996, Florida Statutes, to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration,

or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(24) In collaboration with lead agencies, service providers, and other community stakeholders, the department shall develop a statewide accountability system based on measurable quality standards. The accountability system must be implemented by July 1, 2021.

(a) The accountability system must:

1. Assess the overall health of the child welfare system, by circuit, using grading criteria established by the department;

2. Include a quality measurement system with domains and clearly defined levels of quality. The system must measure the performance standards for child protective investigators, lead agencies, and children's legal services throughout the system of care, using criteria established by the department, and, at a minimum, address applicable federal- and state-mandated metrics.

3. Align with the principles of the results-oriented accountability program established under s. 409.997.

(b) After the development and implementation of the accountability system under this subsection, the department and each lead agency shall use the information from the accountability system to promote enhanced quality service delivery within their respective areas of responsibility.

(c) By December 1 of each year, the department shall submit

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a report on the overall health of the child welfare system to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(d) The department may adopt rules to implement this subsection.

(25) Subject to an appropriation, for the 2020-2021 and 2021-2022 fiscal years, the department shall implement a pilot project in the Sixth and Thirteenth Judicial Circuits, respectively, aimed at improving child welfare outcomes.

(a) In implementing the pilot projects, the department shall establish performance metrics and performance standards to assess improvements in safety, permanency, and the well-being of children in the local system of care for the lead agencies in those judicial circuits. Such metrics and standards must be aligned with indicators used in the most recent federal Child and Family Services Reviews.

(b) The lead agencies in the Sixth and Thirteenth Judicial Circuits shall provide performance data to the department each quarter. The department shall review the data for accuracy and completeness and then shall compare the actual performance of the lead agencies to the established performance metrics and standards. Each lead agency that exceeds performance metrics and standards is eligible for incentive funding.

(c) For the first quarter of each fiscal year, the department may advance incentive funding to the lead agencies in an amount equal to one quarter of the total allocated to the pilot project. After each quarter, the department shall assess the performance of the lead agencies for that quarter and adjust the subsequent quarter’s incentive funding based on its actual


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prior quarter performance.

(d) The department shall include the results of the pilot projects in the report required under s. 20.19(7). The report must include the department's findings and recommendations relating to the pilot projects.

(e) This subsection expires July 1, 2022.

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 the Department of Children and Families; amending s. 20.19, F.S.; revising duties and membership of community alliances; requiring the department to establish an Office of Quality; providing duties of the office; requiring the office to develop and submit a report to the Governor and the Legislature annually by a specified date; authorizing the department to adopt rules; amending s. 409.991, F.S.; defining the term "core services funds"; requiring the department to develop a methodology to identify and report the optimal level of funding for community-based care lead agencies; providing requirements for the allocation of core services funds; requiring the Secretary of the Department of Children and Families to submit a report to the Governor and Legislature annually by a specified date;

providing requirements for such report; authorizing the department to adopt rules; requiring certain funding to be allocated based on the department's methodology, unless otherwise specified in the General Appropriations Act; amending s. 409.996, F.S.; requiring the department to develop a statewide accountability system; requiring that such system be implemented by a specified date; providing requirements for such accountability system; requiring the department and lead agencies to promote enhanced quality service delivery; requiring the department to submit a report to the Governor and the Legislature annually by a specified date; authorizing the department to adopt rules; requiring the department to implement pilot projects to improve child welfare outcomes in specified judicial circuits; requiring the department to establish performance metrics and standards to implement the pilot projects; requiring lead agencies in specified judicial circuits to provide certain data to the department each quarter; requiring the department to review such data; authorizing the department to advance incentive funding to certain lead agencies that meet specified requirements; requiring the department to include certain results in a specified report; providing for future expiration; providing an effective date.

272028

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/26/2020	.	
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	.	

The Committee on Appropriations (Simpson) recommended the following:

Senate Amendment to Amendment (835096) (with title amendment)

Between lines 219 and 220
insert:

Section 4. (1) For the 2020-2021 fiscal year, the sum of $6,176,289 in recurring funds is appropriated from the General Revenue Fund, and the sum of $2,058,763 is appropriated from the Federal Grant Trust Fund, to the Department of Children and Families for incentive funding for the pilot projects required

272028

under s. 409.996(25), Florida Statutes, as created by this act.

(2) For the 2020-2021 fiscal year, the sum of $5,350,000 in recurring funds from the General Revenue Fund is appropriated to the Department of Children and Families, and 125 full-time equivalent positions with associated salary rate of 2,907,885 are authorized for the establishment of the Office of Quality, as required under s. 20.19(7), Florida Statutes, as created by this act. The department is authorized to reassign staff and submit budget amendments pursuant to s. 216.292, Florida Statutes, to realign up to 125 currently authorized positions to serve in the Office of Quality.

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

And the title is amended as follows:

Delete line 268

and insert:

future expiration; providing appropriations; authorizing positions; providing an effective date.

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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	.	
	.	

The Committee on Appropriations (Simpson) recommended the following:

Senate Substitute for Amendment (835096) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (b), (d), and (e) of subsection (5) of section 20.19, Florida Statutes, are amended, and a new subsection (7) is added to that section, to read:

20.19 Department of Children and Families.—There is created a Department of Children and Families.

(5) COMMUNITY ALLIANCES.—

(b) The duties of the community alliance include, but are not limited to:

1. Joint planning for resource utilization in the community, including resources appropriated to the department and any funds that local funding sources choose to provide.

2. Needs assessment and establishment of community priorities for service delivery.

3. Determining community outcome goals to supplement state-required outcomes.

4. Serving as a catalyst for community resource development, including, but not limited to, identifying existing programs and services delivered by and assistance available from community-based organizations and faith-based organizations, and encouraging the development and availability of such programs, services, and assistance by such organizations. The community alliance shall ensure that the community-based care lead agency is aware of such programs, services, and assistance and work to facilitate the lead agency's appropriate use of these resources.

5. Providing for community education and advocacy on issues related to delivery of services.

6. Promoting prevention and early intervention services.

(d) The initial membership of the community alliance in a county, at a minimum, must ~~shall~~ be composed of the following:

1. A representative from the department.

2. A representative from county government.

3. A representative from the school district.

4. A representative from the county United Way.

5. A representative from the county sheriff's office.

6. A representative from the circuit court corresponding to the county.

7. A representative from the county children's board, if one exists.

8. A representative of a faith-based organization involved in efforts to prevent child maltreatment, strengthen families, or promote adoption.

(e) At any time after the initial meeting of the community alliance, The community alliance shall adopt bylaws and may increase the membership of the alliance to include the state attorney for the judicial circuit in which the community alliance is located, or his or her designee, the public defender for the judicial circuit in which the community alliance is located, or his or her designee, and other individuals and organizations who represent funding organizations, are community leaders, have knowledge of community-based service issues, or otherwise represent perspectives that will enable them to accomplish the duties listed in paragraph (b), if, in the judgment of the alliance, such change is necessary to adequately represent the diversity of the population within the community alliance service circuits.

(7) OFFICE OF QUALITY.—The department shall establish an enterprise wide Office of Quality to ensure that the department and contracted service providers meet the highest levels of performance standards.

(a) Duties of the office include, but are not limited to, all of the following:

1. Identifying performance standards and metrics for department programs and all other service providers, including,

but not limited to, behavioral health managing entities, community-based care lead agencies, and attorney services.

2. Conducting ongoing quality assurance reviews of department programs and contracted service providers on at least a quarterly basis using cases randomly selected by the department.

3. Strengthening the department's data and analytic capabilities to identify systemic strengths and deficiencies.

4. In consultation with the department's program offices, recommending unique and varied initiatives to correct programmatic and systemic deficiencies.

5. Collaborating and engaging partners of the department to improve service quality, efficiency, and effectiveness.

6. Reporting any persistent failure by the department or contracted providers to meet performance standards and recommending corrective actions to the secretary.

7. By each December 1, developing and submitting an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives for the preceding fiscal year which encompasses all legislatively mandated statewide reports required to be issued by the department.

(b) The department may adopt rules to administer this subsection.

Section 2. Section 402.402, Florida Statutes, is amended to read:

402.402 Child protection and child welfare personnel; attorneys employed by the department.—

(1) CHILD PROTECTIVE INVESTIGATION PROFESSIONAL STAFF REQUIREMENTS.—The department is responsible for recruitment of

qualified professional staff to serve as child protective investigators and child protective investigation supervisors. The department shall make every effort to recruit and hire persons qualified by their education and experience to perform social work functions. The department's efforts shall be guided by the goal that ~~by July 1, 2019,~~ at least half of all child protective investigators and supervisors will have a bachelor's degree or a master's degree in social work from a college or university social work program accredited by the Council on Social Work Education. The department, in collaboration with the lead agencies, subcontracted provider organizations, the Florida Institute for Child Welfare created pursuant to s. 1004.615, and other partners in the child welfare system, shall develop a protocol for screening candidates for child protective positions which reflects the preferences specified in paragraphs (a)-(f). The following persons shall be given preference in the recruitment of qualified professional staff, but the preferences serve only as guidance and do not limit the department's discretion to select the best available candidates:

(a) Individuals with baccalaureate degrees in social work and child protective investigation supervisors with master's degrees in social work from a college or university social work program accredited by the Council on Social Work Education.

(b) Individuals with baccalaureate or master's degrees in psychology, sociology, counseling, special education, education, human development, child development, family development, marriage and family therapy, and nursing.

(c) Individuals with baccalaureate degrees who have a combination of directly relevant work and volunteer experience,

preferably in a public service field related to children's services, demonstrating critical thinking skills, formal assessment processes, communication skills, problem solving, and empathy; a commitment to helping children and families; a capacity to work as part of a team; an interest in continuous development of skills and knowledge; and personal strength and resilience to manage competing demands and handle workplace stresses.

(2) SPECIALIZED TRAINING.—All child protective investigators and child protective investigation supervisors employed by the department or a sheriff's office must complete specialized training either focused on serving a specific population, including, but not limited to, medically fragile children, sexually exploited children, children under 3 years of age, or families with a history of domestic violence, mental illness, or substance abuse, or focused on performing certain aspects of child protection practice, including, but not limited to, investigation techniques and analysis of family dynamics. The specialized training may be used to fulfill continuing education requirements under s. 402.40(3)(e). Individuals ~~hired before July 1, 2014, shall complete the specialized training by June 30, 2016, and individuals~~ hired on or after July 1, 2014, shall complete the specialized training within 2 years after hire. An individual may receive specialized training in multiple areas.

(3) STAFF SUPPORT.—The department shall implement policies and programs that mitigate and prevent the impact of secondary traumatic stress and burnout among child protective investigations staff, including, but not limited to:

(a) Initiatives to encourage and inspire child protective investigations staff, including recognizing their achievements on a recognition wall within their unit.

(b) Formal procedures for providing support to child protective investigations staff after a critical incident such as a child fatality.

(c) Initial training upon appointment to a supervisory position and annual continuing education for all supervisors on how to prevent secondary traumatic stress and burnout among the employees they supervise.

(d) Monitoring levels of secondary traumatic stress and burnout among individual employees and intervening as needed. The department shall closely monitor and respond to levels of secondary traumatic stress and burnout among employees during the first 2 years after hire.

(e) Ongoing training in self-care for all child protective investigations staff.

Such programs may also include, but are not limited, to formal peer counseling and support programs.

(4) ~~(3)~~ REPORT.—By each October 1, the department shall submit a report on the educational qualifications, turnover, professional advancement, and working conditions of the child protective investigators and supervisors to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) ~~(4)~~ ATTORNEYS EMPLOYED BY OR CONTRACTING WITH THE DEPARTMENT TO HANDLE CHILD WELFARE CASES.—Attorneys hired or contracted with on or after July 1, 2014, whose primary

responsibility is representing the department in child welfare cases shall, within the first 6 months of employment, receive training in:

(a) The dependency court process, including the attorney's role in preparing and reviewing documents prepared for dependency court for accuracy and completeness.~~;~~

(b) Preparing and presenting child welfare cases, including at least 1 week shadowing an experienced children's legal services attorney preparing and presenting cases.~~;~~

(c) Safety assessment, safety decisionmaking tools, and safety plans.~~;~~

(d) Developing information presented by investigators and case managers to support decisionmaking in the best interest of children.~~; and~~

(e) The experiences and techniques of case managers and investigators, including shadowing an experienced child protective investigator and an experienced case manager for at least 8 hours.

Section 3. Paragraph (l) is added to subsection (1) of section 409.988, Florida Statutes, to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(l) Shall identify an employee to serve as a liaison with the community alliance and community-based and faith-based organizations interested in collaborating with the lead agency or offering services or other assistance on a volunteer basis to the children and families served by the lead agency. The lead agency shall ensure that appropriate lead agency staff and subcontractors, including, but not limited to, case managers,

are informed of the specific services or assistance available from community-based and faith-based organizations.

Section 4. Section 409.991, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.991, F.S., for present text.)

409.991 Allocation of funds for community-based care lead agencies.—

(1) As used in this section, the term "core services funds" means all funds allocated to lead agencies operating under contract with the department pursuant to s. 409.987, with the following exceptions:

(a) Funds appropriated for independent living services;

(b) Funds appropriated for maintenance adoption subsidies;

(c) Funds allocated by the department for child protective investigative service training;

(d) Nonrecurring funds;

(e) Designated mental health wrap-around service funds;

(f) Funds for special projects for a designated lead agency; and

(g) Funds appropriated for the Guardianship Assistance Program established under s. 39.6225.

(2) The department shall use an objective, workload-based methodology to identify and report the optimal level of funding for each lead agency considering demand for each of the following:

(a) Prevention services;

(b) Client services;

(c) Licensed out-of-home care costs; and

(d) Staffing, using the ratio for case managers compared to the caseload requirements specified in s. 20.19(4)(c)2.

(3) The allocation of core services funds must be based on the following:

(a) The total optimal funding amount as determined by adding together the funding for prevention services, client services, licensed out-of-home care, and staffing.

(b) A comparison of the total optimal funding amount to the actual allocated funding for the most recent fiscal year to determine the percentage of optimal funding the lead agency is currently receiving.

(4) By November 1 of each year, the secretary must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes the current funding level of each lead agency based on the optimal funding level as determined by using each lead agency workload using the department’s methodology. The report must identify any lead agency that is persistently funded at less than the optimal funding level and recommend strategies to address the shortfall including, but not limited to, business process redesign, the adoption of best practices, and requesting additional funding.

(5) The department may adopt rules to establish the optimal funding levels for lead agencies.

(6) Unless otherwise specified in the General Appropriations Act, the department shall allocate any new funding for core services, based on the department’s methodology, to achieve optimal funding for all lead agencies inversely proportional to each lead agency optimal funding percentage.

(7) Unless otherwise specified in the General Appropriations Act, the department shall consider a lead agency's funding level compared to its optimal funding level when allocating funding from the risk pool, as provided in s. 409.990.

Section 5. Subsections (18) through (23) of section 409.996, Florida Statutes, are renumbered (19) through (24), respectively, paragraph (a) of subsection (1) and subsection (17) of that section are amended, and a new subsection (18),(24), and (25) are added to that section, to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(1) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies pursuant to s. 409.988. At a minimum, the contracts must:

(a) Provide for the services needed to accomplish the duties established in s. 409.988 and provide information to the department which is necessary to meet the requirements for a quality assurance program pursuant to subsection (19) ~~(18)~~ and the child welfare results-oriented accountability system pursuant to s. 409.997.

(17) The department shall directly ~~or through contract~~ provide attorneys to prepare and present cases in dependency

court and shall ensure that the court is provided with adequate information for informed decisionmaking in dependency cases, including, at a minimum, a face sheet for each case which lists the names and contact information for any child protective investigator, child protective investigation supervisor, case manager, and case manager supervisor, and the regional department official responsible for the lead agency contract. The department shall provide to the court the case information and recommendations provided by the lead agency or subcontractor. ~~For the Sixth Judicial Circuit, the department shall contract with the state attorney for the provision of these services.~~

(18)(a) The department may contract for the provision of children's legal services to prepare and present cases in dependency court. The contracted attorneys shall ensure that the court is provided with adequate information for informed decisionmaking in dependency cases, including, at a minimum, a face sheet for each case which lists the names and contact information for any child protective investigator, child protective investigator supervisor, and the regional department official responsible for the lead agency contract. The contracted attorneys shall provide to the court the case information and recommendations provided by the lead agency or subcontractor. For the Sixth Judicial Circuit, the department shall contract with the state attorney for the provision of these services.

(b) The contracted attorneys shall adopt the child welfare practice model, as periodically updated by the department, that is used by attorneys employed by the department. The contracted

attorneys shall operate in accordance with the same federal and state performance standards and metrics imposed on children's legal services attorneys employed by the department.

(c) The department and contracted attorneys providing children's legal services shall collaborate to monitor program performance on an ongoing basis. The department and contracted attorneys', or a representative from such contracted attorneys' offices, shall meet at least quarterly to collaborate on federal and state quality assurance and quality improvement initiatives.

(d) The department shall conduct an annual program performance evaluation which shall be based on the same child welfare practice model principles and federal and state performance standards that are imposed on children's legal services attorneys employed by the department. The program performance evaluation must be standardized statewide and the department shall select random cases for evaluation. The program performance evaluation shall be conducted by a team of peer reviewers from the respective contracted attorneys' offices that perform children's legal services and representatives from the department.

(e) The department shall publish an annual report regarding, at a minimum, performance quality, outcome-measure attainment, and cost efficiency of the services provided by the contracted attorneys. The annual report must include data and information on the performance of both the contracted attorneys' and the department's attorneys. The department shall submit the annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than November 1 of each year that the contracted attorneys are

receiving appropriations to provide children's legal services for the department.

(24) In collaboration with lead agencies, service providers, and other community stakeholders, the department shall develop a statewide accountability system based on measurable quality standards. The accountability system must be implemented by July 1, 2021.

(a) The accountability system must:

1. Assess the overall health of the child welfare system, by circuit, using grading criteria established by the department;

2. Include a quality measurement system with domains and clearly defined levels of quality. The system must measure the performance standards for child protective investigators, lead agencies, and children's legal services throughout the system of care, using criteria established by the department, and, at a minimum, address applicable federal- and state-mandated metrics.

3. Align with the principles of the results-oriented accountability program established under s. 409.997.

(b) After the development and implementation of the accountability system under this subsection, the department and each lead agency shall use the information from the accountability system to promote enhanced quality service delivery within their respective areas of responsibility.

(c) By December 1 of each year, the department shall submit a report on the overall health of the child welfare system to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(d) The department may adopt rules to implement this

subsection.

(25) Subject to an appropriation, for the 2020-2021 and 2021-2022 fiscal years, the department shall implement a pilot project in the Sixth and Thirteenth Judicial Circuits, respectively, aimed at improving child welfare outcomes.

(a) In implementing the pilot projects, the department shall establish performance metrics and performance standards to assess improvements in safety, permanency, and the well-being of children in the local system of care for the lead agencies in those judicial circuits. Such metrics and standards must be aligned with indicators used in the most recent federal Child and Family Services Reviews.

(b) The lead agencies in the Sixth and Thirteenth Judicial Circuits shall provide performance data to the department each quarter. The department shall review the data for accuracy and completeness and then shall compare the actual performance of the lead agencies to the established performance metrics and standards. Each lead agency that exceeds performance metrics and standards is eligible for incentive funding.

(c) For the first quarter of each fiscal year, the department may advance incentive funding to the lead agencies in an amount equal to one quarter of the total allocated to the pilot project. After each quarter, the department shall assess the performance of the lead agencies for that quarter and adjust the subsequent quarter’s incentive funding based on its actual prior quarter performance.

(d) The department shall include the results of the pilot projects in the report required under s. 20.19(7). The report must include the department’s findings and recommendations

relating to the pilot projects.

(e) This subsection expires July 1, 2022.

Section 6. Subsections (6) and (7) of section 1004.615, Florida Statutes, are renumbered as subsections (9) and (10), respectively, and new subsections (6), (7), and (8) are added to that section, to read:

1004.615 Florida Institute for Child Welfare.—

(6) The institute and the Florida State University College of Social Work shall design and implement a curriculum that enhances knowledge and skills for the child welfare practice. The institute and the college shall create the curriculum using interactive and interdisciplinary approaches and include opportunities for students to gain an understanding of real-world child welfare cases. The institute shall disseminate the curriculum to other interested state universities and colleges and provide implementation support. The institute shall contract with a person or entity of its choosing, by November 1, 2020, to evaluate the curriculum and make recommendations for improvement. The college shall implement the curriculum during the 2021-2022 school year. This subsection is subject to an appropriation.

(7) The institute, in collaboration with the department, community-based care lead agencies, providers of case management services, and other child welfare stakeholders, shall design and implement a career-long professional development curriculum for child welfare professionals at all levels and from all disciplines. The professional development curriculum must enhance the performance of the current child welfare workforce, address issues related to retention, complement the social work

curriculum, and be developed using social work principles. The professional development curriculum shall provide career-long coaching, training, certification, and mentorship. The institute must provide the professional support on a continuous basis through online and in-person services. The professional development curriculum must be available by July 1, 2021. The Department of Children and Families must approve the curriculum prior to implementation. This subsection is subject to an appropriation.

(8) The institute shall establish a consulting program for child welfare organizations to enhance workforce culture, supervision, and related management processes to improve retention, effectiveness, and overall well-being of staff to support improved child welfare outcomes. The institute shall select child welfare organizations through a competitive application process and provide ongoing analysis, recommendations, and support from a team of experts on a long-term basis to address systemic and operational workforce challenges. This subsection is subject to an appropriation.

Section 7. The Department of Children and Families, in collaboration with the Florida Institute of Child Welfare, shall develop an expanded career ladder for child protective investigations staff. The career ladder shall include multiple levels of child protective investigator classifications, corresponding milestones and professional development opportunities necessary for advancement, and compensation ranges. The department must submit a proposal for the expanded career ladder to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than

November 1, 2020.

Section 8. (1) For the 2020-2021 fiscal year, the sum of $8,235,052 in recurring funds is appropriated from the General Revenue fund to the Department of Children and Families for incentive funding for the pilot projects required in s. 409.998(25), Florida Statutes, as created by this act.

(2) For the 2020-2021 fiscal year the sum of $5,350,000 in recurring funds from the General Revenue Fund is appropriated to the Department of Children and Families, and 2,907,885 in rate is authorized for the establishment of the Office of Quality, as required in s. 20.19(7), Florida Statutes. The department is authorized to reassign up to 125 currently authorized positions and submit budget amendments pursuant to chapter 216, Florida Statutes, for the Office of Quality to administer and implement the provisions of this act.

Section 9. Sections 1, 2, and 3 of this act may be cited as the "State of Hope Act."

Section 10. 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 Department of Children and Families; amending s. 20.19, F.S.; revising duties and membership of community alliances; requiring the department to establish an Office of Quality; providing duties of the office; requiring the office

to develop and submit a report to the Governor and the Legislature annually by a specified date; authorizing the department to adopt rules; amending s. 402.402, F.S.; requiring the department to implement certain policies and programs to improve the well being of certain employees; adding requirements to an annual report; amending s. 409.988, F.S.; requiring community based care lead agencies to name a liaison with the faith-based community; amending s. 409.991, F.S.; defining the term "core services funds"; requiring the department to develop a methodology to identify and report the optimal level of funding for community-based care lead agencies; providing requirements for the allocation of core services funds; requiring the Secretary of the Department of Children and Families to submit a report to the Governor and Legislature annually by a specified date; providing requirements for such report; authorizing the department to adopt rules; requiring certain funding to be allocated based on the department's methodology, unless otherwise specified in the General Appropriations Act; amending s. 409.996, F.S.; requiring the department to develop a statewide accountability system; requiring that such system be implemented by a specified date; providing requirements for such accountability system; requiring the department and lead agencies to promote enhanced quality service delivery; requiring the department to submit a report to the Governor and the Legislature annually by a specified date; authorizing the

department to adopt rules; requiring the department to implement pilot projects to improve child welfare outcomes in specified judicial circuits; requiring the department to establish performance metrics and standards to implement the pilot projects; requiring lead agencies in specified judicial circuits to provide certain data to the department each quarter; requiring the department to review such data; authorizing the department to advance incentive funding to certain lead agencies that meet specified requirements; requiring the department to include certain results in a specified report; providing for future expiration; amending s. 1004.615, F.S.; to require the Institute for Child Welfare to develop a child welfare education curriculum; develop a child welfare workforce curriculum; provide a consulting program for child welfare organizations; requiring the institute and the Department of Children and Families to develop a proposal for a career ladder for child protective investigations staff; providing a short title; providing an appropriation; providing an effective date.

By Senator Simpson

10-01854-20 20201326__

A bill to be entitled

An act relating to the Department of Children and Families; providing a short title; amending s. 20.19, F.S.; providing for the creation of the Office of Quality Assurance and Improvement in the Department of Children and Families; requiring the Secretary of Children and Families to appoint a chief quality officer; providing duties of the chief quality officer; creating s. 39.0012, F.S.; providing legislative intent; requiring the department to annually report certain information to the Governor and the Legislature by a specified date; requiring the department to publish such report on its website; providing requirements for such report; amending s. 39.01, F.S.; defining terms; amending s. 39.201, F.S.; extending the timeframe within which a protective investigation is required to be commenced in certain circumstances; specifying factors to be considered when determining when to commence a protective investigation; authorizing certain reports to the central abuse hotline to be referred for precrisis preventive services; amending s. 39.301, F.S.; requiring notification of certain staff of certain reports to the central abuse hotline; requiring detailed documentation for preventive services; requiring the department to incorporate into its quality assurance program the monitoring of reports that receive preventive services; providing that onsite investigation visits must be unannounced unless

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a certain finding is made; requiring that contacts made involving preventive services be announced unless there is no reasonable means to do so; amending s. 39.3065, F.S.; providing legislative intent; requiring certain sheriffs to adopt Florida's Child Welfare Practice Model and operate under certain provisions of law; requiring the department and sheriffs to collaborate and conduct program performance evaluations; requiring the department and sheriffs, or their designees, to meet at least quarterly for a specified purpose; providing that program performance evaluations be based on criteria developed by the department; requiring such evaluations to be standardized using a random sample of cases; revising the date by which the department is required to submit an annual report to the Governor and the Legislature; requiring certain sheriffs to annually submit to the department a prevention plan; providing requirements for such prevention plans; authorizing the secretary of the department to offer resources to sheriffs for certain purposes; amending s. 394.67, F.S.; defining the term "performance standards and metrics"; amending s. 394.9082, F.S.; providing legislative intent; requiring the department to annually provide a report containing certain information to the Governor and the Legislature by a specified date; requiring the department to publish such report on its website; providing requirements for such report; requiring the department to grade each managing entity based on

specified criteria; requiring the department to renew contracts with managing entities that receive a specified grade; requiring the department to develop a system of support and improvement strategies for certain managing entities; authorizing the department to provide assistance to certain managing entities; requiring the department to take certain actions in response to managing entities that receive a grade of "D" or "F"; authorizing the department to competitively procure and contract under certain circumstances; authorizing the secretary of the department to direct resources to managing entities for certain purposes and to terminate contracts with certain entities; requiring managing entities to pay certain fines incurred by the department; requiring managing entities to retain responsibility for any failures of compliance if the managing entity subcontracts its duties or services; requiring the department to conduct program performance evaluations of managing entities at least annually; requiring managing entities to allow the department access to make onsite visits to contracted providers; requiring the department to adopt rules; deleting provisions relating to a requirement for the department to establish performance standards for managing entities; amending s. 409.986, F.S.; defining terms; amending s. 409.991, F.S.; providing legislative findings and intent; defining terms; providing for the calculation of the allocation of core plus funds; prohibiting the

department from reducing or redistributing the allocation budget for certain lead agencies before the 2023-2024 fiscal year; providing for funding of lead agencies; providing for the distribution of additional funding to lead agencies; amending s. 409.996, F.S.; revising requirements for contracts entered into by the department with lead agencies; requiring the department to provide grades for lead agencies based on specified criteria; requiring the department to renew contracts with lead agencies that receive a specified grade; requiring the department to develop a system of support and improvement strategies for certain lead agencies; authorizing the department to provide assistance to certain lead agencies; requiring the department to take certain actions in response to lead agencies that receive a grade of "D" or "F"; authorizing the department to competitively procure and contract under certain circumstances; authorizing the secretary of the department to offer resources to lead agencies for certain purposes and to terminate contracts with certain entities; requiring lead agencies to pay certain fines incurred by the department; requiring lead agencies to retain responsibility for any failures of compliance if the lead agency subcontracts its duties or services; requiring the department to adopt rules; requiring attorneys contracted by the department to adopt Florida's Child Welfare Practice Model and to operate in accordance with specified provisions of law;

requiring the department and contracted attorneys to collaborate and conduct program performance evaluations; requiring the department and attorneys or their designees to meet at least quarterly for a specified purpose; providing requirements for annual program performance evaluations; requiring the department to annually submit a report containing certain information to the Governor and the Legislature by a specified date; authorizing the secretary of the department to offer resources to contracted attorneys for certain purposes; amending s. 409.997, F.S.; requiring certain data to be provided to the Office of Quality Assurance and Improvement; requiring the department to conduct certain evaluations of lead agencies at least annually; requiring lead agencies to allow the department access to make onsite visits to contracted providers; amending ss. 39.202, 39.502, 39.521, 39.6011, 39.6012, 39.701, 39.823, 322.09, 393.065, 394.495, 394.674, 409.987, 409.988, 627.746, 934.255, and 960.065, F.S.; conforming cross-references; reenacting and amending s. 39.302(1), F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect, to incorporate the amendments made to s. 39.201, F.S.; reenacting ss. 409.988(1)(b) and 409.996(1)(a), F.S., relating to lead agency duties and duties of the department, respectively, to incorporate the amendment made to s. 409.997, F.S., in references thereto; providing an effective date.

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

Section 1. This act may be cited as the "DCF Accountability Act."

Section 2. Present subsections (5) and (6) of section 20.19, Florida Statutes, are redesignated as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

20.19 Department of Children and Families.—There is created a Department of Children and Families.

(5) There is created in the department an Office of Quality Assurance and Improvement.

(a) The secretary shall appoint a chief quality officer to lead the office and ensure that the department and its service providers meet the highest level of performance standards. The chief quality officer shall serve at the pleasure of the secretary.

(b) The chief quality officer shall:

1. Analyze and monitor the development and implementation of federal and state laws, rules, and regulations and other governmental policies and actions that pertain to persons being served by the department.

2. Develop and implement performance standards and metrics for determining the department's compliance with federal and state laws, rules, and regulations and other governmental policies and actions.

3. Strengthen the department's data and analytic capabilities to identify systemic strengths and deficiencies.

4. Identify performance standards and metrics for the department and all other service providers, including, but not limited to, law enforcement agencies, managing entities, lead agencies, and attorney services.

5. Recommend unique and varied initiatives to correct programmatic and systemic deficiencies.

6. Collaborate and engage partners of the department to improve quality, efficiency, and effectiveness.

7. Report any persistent failure by the department to meet performance standards and recommend to the secretary corrective courses prescribed by statute.

8. Prepare an annual report of all contractual performance metrics, including the most current status of such metrics, to the secretary.

Section 3. Section 39.0012, Florida Statutes, is created to read:

39.0012 Child welfare accountability.—

(1) It is the intent of the Legislature that:

(a) Florida's child welfare system be held accountable for providing exemplary services in a manner that is transparent and that inspires public confidence in the Department of Children and Families.

(b) The department be held accountable to the Governor and the Legislature for carrying out the purposes of, and the responsibilities established in, this chapter. It is further the intent of the Legislature that the department only contract with entities that carry out the purposes of, and the responsibilities established in, this chapter.

(c) The department, other agencies, the courts, law

enforcement agencies, local communities, and other contracted child welfare service providers are all held accountable to the highest standards.

(d) While the department has been directed to delegate the duties of child welfare to other entities, law enforcement agencies, local communities, and other contracted child welfare service providers, the department retains direct responsibility for quality assurance.

(e) The department, in consultation with child welfare service providers, establish overall performance levels and metrics for any entity that the department contracts with to provide child welfare services.

(f) The department acts to offer increasing levels of support for child welfare service providers with performance deficiencies. However, the department may not continue to contract with child welfare service providers that persistently fail to meet performance standards and metrics for three or more consecutive annual performance reviews.

(2) By November 1 of each year, the department shall report on all performance levels and contractual performance metrics, including the most current status of such levels and metrics, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The department must annually publish the report on its website. The report must contain the following information:

(a) Performance metrics for the entire child welfare system, including grades for the lead agencies.

(b) Performance metrics by region and type of child welfare service provider, including performance levels.

(c) A list of the child welfare service providers not in compliance with performance metrics.

(d) Detailed corrective action taken, if any, to bring child welfare service providers back into compliance with performance metrics.

Section 4. Present subsections (10) through (12), (13) through (29), (30) through (58), and (59) through (87) of section 39.01, Florida Statutes, are redesignated as subsections (11) through (13), (15) through (31), (33) through (61), and (63) through (91), respectively, new subsections (10), (14), (32), and (62) are added to that section, and present subsections (10) and (37) of that section are amended, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(10) "Best practices" means a method or program that has been recognized by the department and has been found to be successful for compliance with performance standards and metrics.

(11)~~(10)~~ "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (57) ~~(54)~~.

(14) "Child welfare service provider" means county and municipal governments and agencies, public and private agencies, and private individuals and entities with which the department has a contract or agreement to carry out the purposes of, and responsibilities established in, this chapter.

(32) "Florida's Child Welfare Practice Model" means the methodology developed by the department, based on child welfare

statutes and rules, to ensure the permanency, safety, and well-being of children.

(40)~~(37)~~ "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's welfare as defined in subsection (57) ~~(54)~~.

(62) "Performance standards and metrics" means quantifiable measures used to track and assess performance, as determined by the department.

Section 5. Subsection (5) of section 39.201, Florida Statutes, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(5) The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse, abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.

(a) If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night.

(b) In all other child abuse, abandonment, or neglect

cases, a child protective investigation shall be commenced within either 24 or 72 hours after receipt of the report, depending upon the severity of the alleged abuse, abandonment, or neglect and assessed risk to the child.

1. Factors to be considered in the assessed severity and risk to the child include, but are not limited to:

a. Whether the alleged abuse, abandonment, or neglect incident is alleged to have occurred more than 30 days prior to the reporter's contact with the central abuse hotline.

b. Whether there is credible information to support a finding that the alleged perpetrator will not have access to the alleged child victim for at least 72 hours following the reporter's contact with the central abuse hotline.

c. Whether the alleged child victim no longer resides at or attends the facility where the abuse, abandonment, or neglect is alleged to have occurred.

2. A child protective investigation must be commenced within 24 hours if the incident involves any of the following:

a. Sexual abuse allegations.

b. Human trafficking allegations.

c. The alleged victim is under 1 year of age.

(c) For reports that do not meet the statutory criteria for abuse, abandonment, or neglect, but the circumstances surrounding a family are precrisis in nature, the department may contact and attempt to engage the family in preventive services to prevent the need for more intrusive interventions in the future.

(d) In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own

expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

Section 6. Present subsections (14) through (23) of section 39.301, Florida Statutes, are redesignated as subsections (15) through (24), respectively, a new subsection (14) is added to that section, and subsections (1), (10), (11), and (13) of that section are amended, to read:

39.301 Initiation of protective investigations.—

(1) Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated regional ~~district~~ staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not

requiring an immediate onsite protective investigation, the central abuse hotline shall determine whether the report meets criteria for a 24- or 72-hour investigation, or preventive services, and notify the department's designated regional ~~district~~ staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification, the central abuse hotline shall also provide information to regional ~~district~~ staff on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(10)(a) The department's training program for staff responsible for responding to reports accepted by the central abuse hotline must also ensure that child protective responders:

1. Know how to fully inform parents or legal custodians of their rights and options, including opportunities for audio or video recording of child protective responder interviews with parents or legal custodians or children.

2. Know how and when to use the injunction process under s. 39.504 or s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.

3. Know how to explain to the parent, legal custodian, or person who is alleged to have caused the abuse, neglect, or abandonment the results of the investigation and to provide information about his or her right to access confidential reports in accordance with s. 39.202, prior to closing the case.

(b) To enhance the skills of individual staff members and to improve the region's ~~and district's~~ overall child protection system, the department's training program at the regional level

~~and district levels~~ must include results of qualitative reviews of child protective investigation cases handled within the region ~~or district~~ in order to identify weaknesses as well as examples of effective interventions which occurred at each point in the case.

(c) For all reports received, detailed documentation is required for the investigative activities or preventive services.

(11) The department shall incorporate into its quality assurance program the monitoring of reports that receive a child protective investigation or preventive services to determine the quality and timeliness of safety assessments, engagements with families, teamwork with other experts and professionals, and appropriate investigative activities or preventive services that are uniquely tailored to the safety factors and service needs associated with each child and family.

(13) Onsite investigation visits and face-to-face interviews with the child or family shall be unannounced unless it is determined by the department or its agent or contract provider that such unannounced visit would threaten the safety of the child.

(14) Any contact with the child or family involving preventive services must be announced unless the department or its agent has no means to schedule a visit with the parent or caregiver.

Section 7. Section 39.3065, Florida Statutes, is amended to read:

39.3065 Sheriffs of certain counties to provide child protective investigative services; procedures; funding.—

(1) It is the intent of the Legislature that each sheriff providing child protective investigative services under this section, in consultation with the Department of Children and Families, adopt Florida's Child Welfare Practice Model and implement a prevention plan for his or her county.

(2) As described in this section, the Department of Children and Families shall, by the end of fiscal year 1999-2000, transfer all responsibility for child protective investigations for Pinellas County, Manatee County, Broward County, and Pasco County to the sheriff of that county in which the child abuse, neglect, or abandonment is alleged to have occurred. Each sheriff is responsible for the provision of all child protective investigations in his or her county. Each individual who provides these services must complete the training provided to and required of protective investigators employed by the Department of Children and Families.

(3) ~~(2)~~ During fiscal year 1998-1999, the Department of Children and Families and each sheriff's office shall enter into a contract for the provision of these services. Funding for the services will be appropriated to the Department of Children and Families, and the department shall transfer to the respective sheriffs for the duration of fiscal year 1998-1999, funding for the investigative responsibilities assumed by the sheriffs, including federal funds that the provider is eligible for and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract, and including, but not limited to, funding for all investigative, supervisory, and clerical positions; training; all associated equipment; furnishings; and

other fixed capital items. The contract must specify whether the department will continue to perform part or none of the child protective investigations during the initial year. The sheriffs may either conduct the investigations themselves or may, in turn, subcontract with law enforcement officials or with properly trained employees of private agencies to conduct investigations related to neglect cases only. If such a subcontract is awarded, the sheriff must take full responsibility for any safety decision made by the subcontractor and must immediately respond with law enforcement staff to any situation that requires removal of a child due to a condition that poses an immediate threat to the child's life. The contract must specify whether the services are to be performed by departmental employees or by persons determined by the sheriff. During this initial year, the department is responsible for quality assurance, and the department retains the responsibility for the performance of all child protective investigations. The department must identify any barriers to transferring the entire responsibility for child protective services to the sheriffs' offices and must pursue avenues for removing any such barriers by means including, but not limited to, applying for federal waivers. By January 15, 1999, the department shall submit to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees that oversee departmental activities a report that describes any remaining barriers, including any that pertain to funding and related administrative issues. Unless the Legislature, on the basis of that report or other pertinent information, acts to block a transfer of the entire

responsibility for child protective investigations to the sheriffs' offices, the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County, beginning in fiscal year 1999-2000, shall assume the entire responsibility for such services, as provided in subsection (4) ~~(3)~~.

(4)~~(3)~~(a) Beginning in fiscal year 1999-2000, the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County have the responsibility to provide all child protective investigations in their respective counties. Beginning in fiscal year 2000-2001, the Department of Children and Families is authorized to enter into grant agreements with sheriffs of other counties to perform child protective investigations in their respective counties.

(b) The sheriffs shall adopt Florida's Child Welfare Practice Model and operate in accordance with the same federal performance standards and metrics regarding child welfare and protective investigations imposed on ~~operate, at a minimum, in accordance with the performance standards and outcome measures established by the Legislature for protective investigations conducted by~~ the Department of Children and Families. Each individual who provides these services must complete, at a minimum, the training provided to and required of protective investigators employed by the Department of Children and Families.

(c) Funds for providing child protective investigations must be identified in the annual appropriation made to the Department of Children and Families, which shall award grants for the full amount identified to the respective sheriffs' offices. Notwithstanding ~~the provisions of~~ ss. 216.181(16)(b)

and 216.351, the Department of Children and Families may advance payments to the sheriffs for child protective investigations. Funds for the child protective investigations may not be integrated into the sheriffs' regular budgets. Budgetary data and other data relating to the performance of child protective investigations must be maintained separately from all other records of the sheriffs' offices and reported to the Department of Children and Families as specified in the grant agreement.

(d) The Department of Children and Families and each sheriff shall collaborate and conduct program performance evaluations on an ongoing basis. The department and each sheriff or their designees shall meet at least quarterly to collaborate on federal and state quality assurance and continuous quality improvement initiatives.

(e)~~(d)~~ The annual program performance evaluation shall be based on criteria developed by ~~mutually agreed upon by the respective sheriffs and~~ the Department of Children and Families for use with all child protective investigators statewide. The program performance evaluation shall be conducted by a team of peer reviewers from the respective sheriffs' offices that perform child protective investigations and representatives from the department. The program performance evaluation shall be standardized using a random sample of cases selected by the department. The Department of Children and Families shall submit an annual report regarding quality performance, outcome-measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, and ~~to~~ the Governor no later than November 1 ~~January 31~~ of each year the sheriffs are receiving general appropriations to provide child protective

investigations.

(f) By June 30 of each year, each sheriff shall submit to the department for approval a prevention plan that details his or her approach to prevention within his or her community. The plan must include provisions for engaging prevention services at the earliest point practicable and for using community resources.

(g) At any time, the secretary may offer resources to sheriffs to address any performance deficiencies that directly impact the safety of children in this state.

Section 8. Present subsections (17) through (24) of section 394.67, Florida Statutes, are redesignated as subsections (18) through (25), respectively, a new subsection (17) is added to that section, and subsection (3) of that section is amended, to read:

394.67 Definitions.—As used in this part, the term:

(3) "Crisis services" means short-term evaluation, stabilization, and brief intervention services provided to a person who is experiencing an acute mental or emotional crisis, as defined in subsection (18) ~~(17)~~, or an acute substance abuse crisis, as defined in subsection (19) ~~(18)~~, to prevent further deterioration of the person's mental health. Crisis services are provided in settings such as a crisis stabilization unit, an inpatient unit, a short-term residential treatment program, a detoxification facility, or an addictions receiving facility; at the site of the crisis by a mobile crisis response team; or at a hospital on an outpatient basis.

(17) "Performance standards and metrics" means quantifiable measures used to track and assess performance, as determined by

the department.

Section 9. Subsections (1) and (7) of section 394.9082, Florida Statutes, are amended, and paragraph (m) is added to subsection (3) of that section, to read:

394.9082 Behavioral health managing entities.—

(1) INTENT AND PURPOSE.—

(a) The Legislature finds that untreated behavioral health disorders constitute major health problems for residents of this state, are a major economic burden to the citizens of this state, and substantially increase demands on the state's juvenile and adult criminal justice systems, the child welfare system, and health care systems. The Legislature finds that behavioral health disorders respond to appropriate treatment, rehabilitation, and supportive intervention. The Legislature finds that local communities have also made substantial investments in behavioral health services, contracting with safety net providers who by mandate and mission provide specialized services to vulnerable and hard-to-serve populations and have strong ties to local public health and public safety agencies. The Legislature finds that a regional management structure that facilitates a comprehensive and cohesive system of coordinated care for behavioral health treatment and prevention services will improve access to care, promote service continuity, and provide for more efficient and effective delivery of substance abuse and mental health services. It is the intent of the Legislature that managing entities work to create linkages among various services and systems, including juvenile justice and adult criminal justice, child welfare, housing services, homeless systems of care, and health care.

(b) The purpose of the behavioral health managing entities is to plan, coordinate, and contract for the delivery of community mental health and substance abuse services, to improve access to care, to promote service continuity, to purchase services, and to support efficient and effective delivery of services.

(c) It is the further intent of the Legislature that:

1. The department only contract with managing entities that carry out the purposes of, and the responsibilities established in, this chapter.

2. The department and the contracted managing entities are all held accountable to the highest standards. While the department may delegate the duties of specific services to managing entities, the department retains responsibility for quality assurance.

3. The department, in consultation with the contracted managing entities, establish overall performance levels and metrics for the services provided by the managing entities. The performance standards set by the department for the contracted managing entities must, at a minimum, address the tasks contained in the managing entity's contract with the department.

4. The department offers increasing levels of support for managing entities with performance deficiencies. However, the department may not continue to contract with managing entities that consistently fail to meet performance standards and metrics for three or more consecutive annual performance reviews.

(3) DEPARTMENT DUTIES.—The department shall:

(m) By November 1 of each year, provide a report on all performance levels and contractual performance metrics, and the

most current status of such levels and metrics, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The department must annually publish the report on its website. The report must contain the following information:

1. Performance metrics, including grades, for the managing entities.

2. Performance metrics by region and type of managing entity, including performance levels.

3. A list of the managing entities not in compliance with performance metrics.

4. Detailed corrective action taken, if any, to bring managing entities back into compliance with performance metrics.

(7) PERFORMANCE MEASUREMENT AND ACCOUNTABILITY.—Managing entities shall collect and submit data to the department regarding persons served, outcomes of persons served, costs of services provided through the department's contract, and other data as required by the department. The department shall evaluate managing entity performance and the overall progress made by the managing entity.

(a) The department shall provide a grade to each managing entity based on the department's annual review of the entity's compliance with performance standards and metrics.

(b) A managing entity's performance shall be graded based on a weighted score of the entity's compliance with performance standards and metrics using one of the following grades:

1. "A," managing entities with a weighted score of 4.0 or higher.

2. "B," managing entities with a weighted score of 3.0 to

3.99.

3. "C," managing entities with a weighted score of 2.0 to 2.99.

4. "D," managing entities with a weighted score of 1.0 to 1.99.

5. "F," managing entities with a weighted score of less than 1.0.

(c) If the current contract has a renewal option, the department shall renew the contract of a managing entity that has received an "A" grade for the 2 years immediately preceding the renewal date of the contract.

(d) The department shall develop a multitiered system of support and improvement strategies designed to address low performance of managing entities.

(e) The department may provide assistance to any managing entity for the purpose of meeting performance standards and metrics. Assistance may include, but is not limited to, recommendations for best practices and implementation of a corrective action plan.

(f) The department shall provide assistance to a managing entity that receives a "C" grade or lower on its annual review until it has improved to at least a "B" grade.

(g) For any managing entity that has received a grade of "D" or "F," the department shall take immediate action to engage stakeholders in a needs assessment to develop a turnaround option plan. The turnaround option plan may include, but is not limited to, the implementation of corrective actions and best practices designed to improve performance. The department must review and approve the plan before implementation by the

managing entity.

(h) Upon a managing entity's receipt of a third consecutive "D" grade or lower, the department shall initiate proceedings to terminate any contract with the managing entity.

(i) If cancellation of a contract with a managing entity occurs in a manner that threatens a lapse in services, the department may procure and contract pursuant to s. 287.057(3)(a).

(j) At any time, the secretary may offer resources to a managing entity to address any deficiencies in meeting performance standards and metrics which directly impact the safety of persons receiving services from the managing entity.

(k) Notwithstanding paragraphs (d) through (j), the secretary, at his or her discretion, may terminate a contract with a managing entity that has received an "F" grade or upon the occurrence of an egregious act or omission by the managing entity or its subcontractor.

(l) The managing entity shall pay any federal fines incurred by the department as the result of that managing entity's failure to comply with the performance standards and metrics.

(m) If the managing entity subcontracts any of its duties or services, the managing entity shall retain responsibility for its failure to comply with performance standards and metrics.

(n) The department shall conduct an onsite program performance evaluation of each managing entity at least once per year. Each managing entity must allow the department access to make onsite visits at its discretion to any contracted provider. The onsite evaluation shall consist of a review of a random

sample of cases selected by the department.

(o) The department shall adopt rules to administer this section ~~, together with other systems, in meeting the community's behavioral health needs, based on consumer-centered outcome measures that reflect national standards, if possible, that can be accurately measured. The department shall work with managing entities to establish performance standards, including, but not limited to:~~

~~(a) The extent to which individuals in the community receive services, including, but not limited to, parents or caregivers involved in the child welfare system who need behavioral health services.~~

~~(b) The improvement in the overall behavioral health of a community.~~

~~(c) The improvement in functioning or progress in the recovery of individuals served by the managing entity, as determined using person-centered measures tailored to the population.~~

~~(d) The success of strategies to:~~

~~1. Divert admissions from acute levels of care, jails, prisons, and forensic facilities as measured by, at a minimum, the total number and percentage of clients who, during a specified period, experience multiple admissions to acute levels of care, jails, prisons, or forensic facilities;~~

~~2. Integrate behavioral health services with the child welfare system; and~~

~~3. Address the housing needs of individuals being released from public receiving facilities who are homeless.~~

~~(e) Consumer and family satisfaction.~~

~~(f) The level of engagement of key community constituencies, such as law enforcement agencies, community-based care lead agencies, juvenile justice agencies, the courts, school districts, local government entities, hospitals, and other organizations, as appropriate, for the geographical service area of the managing entity.~~

Section 10. Subsection (3) of section 409.986, Florida Statutes, is amended to read:

409.986 Legislative findings and intent; child protection and child welfare outcomes; definitions.—

(3) DEFINITIONS.—As used in this part, except as otherwise provided, the term:

(a) "Best practices" means a method or program that has been recognized by the department and has been found to be successful for ensuring compliance with performance standards and metrics.

(b) ~~(a)~~ "Care" means services of any kind which are designed to facilitate a child remaining safely in his or her own home, returning safely to his or her own home if he or she is removed from the home, or obtaining an alternative permanent home if he or she cannot remain at home or be returned home. The term includes, but is not limited to, prevention, diversion, and related services.

(c) ~~(b)~~ "Child" or "children" has the same meaning as provided in s. 39.01.

(d) ~~(c)~~ "Community alliance" or "alliance" means the group of stakeholders, community leaders, client representatives, and funders of human services established pursuant to s. 20.19(6) ~~s. 20.19(5)~~ to provide a focal point for community participation

and oversight of community-based services.

(e) ~~(d)~~ "Community-based care lead agency" or "lead agency" means a single entity with which the department has a contract for the provision of care for children in the child protection and child welfare system in a community that is no smaller than a county and no larger than two contiguous judicial circuits. The secretary of the department may authorize more than one eligible lead agency within a single county if doing so will result in more effective delivery of services to children.

(f) "Florida's Child Welfare Practice Model" means the methodology developed by the department based on child welfare statutes and rules to ensure the permanency, safety, and well-being of children.

(g) "Performance standards and metrics" means quantifiable measures used to track and assess performance as determined by the department.

(h) ~~(e)~~ "Related services" includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, coordination of mental health services, postplacement supervision, permanent foster care, and family reunification.

Section 11. Section 409.991, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.991, F.S., for present text.)

409.991 Allocation of funds for community-based care lead agencies.—

(1)(a) The Legislature finds that there is a need for accountability across the child welfare system and that the distribution of equitable funding across the system to community-based care lead agencies is necessary to ensure the provision of quality services to all persons being served by the contracted lead agencies.

(b) It is the intent of the Legislature that the department calculate funding for lead agencies using a consistent and equitable allocation formula to ensure the provision of quality services to all persons being served by the department.

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

(a) "Area cost differential" means the district cost differential as computed in s. 1011.62(2).

(b) "Caseload" is determined by the following factors:

1. For case managers and program support, caseload is the most recent month-end average of in-home and out-of-home children using counts from the department's child welfare information system for the most recent 24 months.

2. For foster home recruiters and initial licensing staff, homes needed is the sum of 25 percent of the current homes licensed using the most recent month data available plus one-third of the total new homes needed.

3. New homes needed is calculated as 1.6 times the current number of children in foster homes and group homes less the current number of licensed homes.

4. Homes relicensed is calculated as 75 percent of the current homes licensed using the most recent month data available.

5. Removals are the most recent annual average for the

previous 24 months for staff costs, except for the previous 12 months for board costs, including, but not limited to, clothing.

6. The average number of adoptions finalized during the most recent 24 months.

7. For board, licensed care caseload is the most recent month-end average of foster home, group home and residential treatment facility using counts from the department's child welfare information system for the most recent 12 months.

(c) "Core plus funds" means:

1. All funds made available in the community-based care lead agency category of the General Appropriations Act for the applicable fiscal year. The term does not include funds appropriated in the community-based care lead agency category of the General Appropriations Act for the applicable fiscal year for independent living.

2. All funds allocated by contract with the department to the lead agency for substance abuse and mental health, or any funds directly contracted by the department for the sole benefit of the lead agency.

(d) "Florida funding for children model" means an allocation model that uses the following factors:

1. Prevention services;

2. Client services;

3. Licensed out-of-home care; and

4. Staffing.

(e) "Group home ceiling" means the difference between the actual group home average census and the expected group home census times 50 percent of the average group home board payment. For purposes of this paragraph:

1. "Actual group home average" means the monthly average number of children in group care and residential treatment facilities for the prior 12 months.

2. "Expected group home census" means the total number of removals for the prior 12 months times 1.4 times the ceiling percentage. The ceiling percentage is 10 percent for the 2021-2022 fiscal year, 9 percent for the 2022-2023 fiscal year, and 8 percent for the 2023-2024 fiscal year and all subsequent years.

(f) "Optimal funding amount" means 100 percent of the Florida funding for children model amount as calculated by the department.

(g) "Prevention services" means any services or costs incurred to prevent children from entering or re-entering foster care, or any services provided to the child or the child's family or caregiver.

(3) The allocation of core plus funds shall be calculated based on the total of prevention services, client services, licensed out-of-home care, and staffing and a comparison of the total optimal funding amount to the actual allocated funding amount for the most recent fiscal year used to determine the percentage of optimal funding the lead agency is currently receiving.

(a) Prevention services shall be determined by the most recent fiscal year of prevention spending by the lead agency plus 10 percent for general and administrative costs.

1. If final expenditure reporting has not yet been completed, an estimate made to be used for the initial allocation and final allocations are determined after the expenditure reporting has been completed.

2. If a lead agency's board costs from the previous year are reduced, the savings in board costs may be transferred to prevention services in the following year and counted towards prevention spending by the lead agency.

(b) Client services shall be calculated as an average amount per caseload as determined by the department then multiplied by the area cost differential. Caseload is determined by adding together the following:

1. The most recent month-end average of in-home and out-of-home children using counts from the department's child welfare information system for the most recent 24 months; and

2. The average annual number of adoption finalizations calculated based on the most recent 24 months.

(c) Licensed out-of-home care is calculated based on board costs.

1. Board costs are calculated by multiplying the annual licensed care caseload times the average board rate plus the number of annual removals times initial clothing allowance as determined by the department.

2. The annual licensed care caseload is determined by adding together the following:

a. The month-end average of foster home, group home and residential treatment facility using counts from the department's child welfare information system for the most recent 12 months.

b. The estimated number of Level 1 foster homes as determined by calculating 40 percent of the total relative and nonrelative placements for the most recent 12 months.

c. The average board rate is the most recent total amount

of full month payments for all items charged for room and board in the department's child welfare information system divided by the number of children included in those payments divided by the number of days in that month.

(d) Staffing is calculated based on the following:

1. Staffing need as determined by the following defined ratios:

a. The ratio for case managers as follows:

(I) One case manager per 17 children for the 2020-2021 fiscal year.

(II) One case manager per 16 children for the 2021-2022 fiscal year.

(III) One case manager per 15 children for the 2022-2023 fiscal year.

(IV) One case manager per 14 children for the 2023-2024 fiscal year and all subsequent years.

b. One case manager supervisor per five case managers.

c. One paraprofessional per four case managers.

d. One safety practice expert per lead agency.

e. One other professional staff per lead agency plus 1 per every 100 case managers, rounded to the nearest whole number.

f. One service coordinator per 20 case managers.

g. One service coordination supervisor per five service coordinators.

h. One foster home recruiter per every 50 homes needed.

i. One licensing staff:

(I) Per every 16 new homes needed;

(II) Per every 20 homes relicensed; and

(III) Per every 50 Level 1 homes licensed.

j. One placement staff per every 168 removals.

k. One out-of-home care supervisor per every five of the total number of foster home recruiters and all licensing staff and placement staff.

l. One adoption staff per every 51.33 adoptions.

m. One adoption supervisor per five adoption staff.

n. One director staff per every five of the total number of case manager supervisors, service coordination supervisors, out-of-home care supervisors, and adoption supervisors, rounded to the nearest whole number.

o. One administrative support staff per every four of the total number of case manager supervisors, service coordination supervisors, out-of-home care supervisors, and adoption supervisors.

2. Program support is calculated by multiplying the average caseload times the Florida average cost per caseload, determined by the department annually. The caseload is determined by adding together the following:

a. The most recent month-end average of in-home and out-of-home children using counts from the department's child welfare information system for the most recent 24 months.

b. The average annual number of adoption finalizations calculated based on the most recent 24 months.

3. Area cost differential.

4. Per position costs for all noted staff positions, as determined by the department annually.

5. General and administrative costs of 10 percent multiplied by the total staff costs including all items above.

(4) Before full implementation in the 2023-2024 fiscal

year, the department may not reduce or redistribute the allocation budget for a lead agency that is funded at more than 110 percent of its optimal funding amount.

(5) Unless otherwise specified in the General Appropriations Act, any new core plus funds shall be allocated based on the Florida funding for children model to achieve 90 percent or more of optimal funding for all lead agencies.

(6) Unless otherwise specified in the General Appropriations Act, any new funds for core services shall be allocated based on the Florida funding for children model.

(7) Beginning with the 2020-2021 fiscal year, any additional funding provided to lead agencies must be distributed following the establishment of performance standards and metrics in accordance with rules adopted by the department. For subsequent years, any additional funding provided to lead agencies by the Legislature must be distributed by the department as follows:

(a) On July 1, 50 percent of the total additional funding allocated to the lead agency must be distributed.

(b) By January 1, the department must evaluate specified performance standards and metrics for the lead agency to determine whether the lead agency's performance has improved since the initial funding was distributed on July 1. If the Office of Quality Assurance and Improvement determines that the lead agency has improved in performance standards and metrics, then the remaining funding must be distributed by February 1. If the lead agency fails to improve performance, then the remaining funding must be redistributed to other lead agencies as determined by the Florida funding for children model.

Section 12. Present subsections (2) through (23) of section 409.996, Florida Statutes, are redesignated as subsections (16) through (37), respectively, new subsections (2) through (15) are added to that section, and subsection (1) and present subsections (17) and (21) are amended, to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(1) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies pursuant to s. 409.988. At a minimum, the contracts must:

(a) Provide for the services needed to accomplish the duties established in s. 409.988 and provide information to the department which is necessary to meet the requirements for a quality assurance program pursuant to subsection (32) ~~(18)~~ and the child welfare results-oriented accountability system pursuant to s. 409.997.

(b) Provide for graduated penalties for failure to comply with contract terms, including the department terminating the contract for failure to meet the performance standards and metrics set by the department. The performance standards set by the department for the lead agencies must, at a minimum, address the following areas:

1. Abuse per 100,000 days in out-of-home care;

2. Abuse during in-home services;

3. Children entering care and achieving permanency within 12 months;

4. Children in care 12 to 23 months achieving permanency within 12 months;

5. Abuse within 6 months of closure of services;

6. Children receiving dental services;

7. Children receiving medical services;

8. Children under supervision who are seen every 30 days;

9. Children who do not reenter care within 12 months of moving to a permanent home;

10. Placement moves per 1,000 days in out-of-home care;

11. Sibling groups where all siblings are placed together; and

12. Young adults aging out and educational achievement.

Such penalties may include financial penalties, enhanced monitoring and reporting, corrective action plans, and early termination of contracts or other appropriate action to ensure contract compliance. The financial penalties shall require a lead agency to reallocate funds from administrative costs to direct care for children.

(c) Ensure that the lead agency shall furnish current and accurate information on its activities in all cases in client case records in the state's statewide automated child welfare information system.

(d) Specify the procedures to be used by the parties to resolve differences in interpreting the contract or to resolve disputes as to the adequacy of the parties' compliance with

their respective obligations under the contract.

(2) The department shall provide a grade for each lead agency based on the department's annual review of the agency's compliance with performance standards and metrics.

(3) A lead agency's performance shall be graded based on a weighted score of its compliance with performance standards and metrics using one of the following grades:

(a) "A," lead agencies with a weighted score of 4.0 or higher.

(b) "B," lead agencies with a weighted score of 3.0 to 3.99.

(c) "C," lead agencies with a weighted score of 2.0 to 2.99.

(d) "D," lead agencies with a weighted score of 1.0 to 1.99.

(e) "F," lead agencies with a weighted score of less than 1.0.

(4) If the current contract has a renewal option, the department shall renew the contract of a lead agency that has received an "A" grade for the 2 years immediately preceding the renewal date of the contract.

(5) The department shall develop a multitiered system of support and improvement strategies designed to address the low performance of a lead agency.

(6) The department may provide assistance to a lead agency for the purpose of meeting performance standards and metrics. Assistance may include, but is not limited to, recommendations for best practices and implementation of a corrective action plan.

(7) The department shall provide assistance to a lead agency that receives a "C" grade or lower on its annual review until such time that it has improved to at least a "B" grade.

(8) For any lead agency that has received a "D" or "F" grade, the department shall take immediate action to engage stakeholders in a needs assessment to develop a turnaround option plan. The turnaround option plan may include, but is not limited to, the implementation of corrective actions and best practices designed to improve performance. The department must review and approve the plan before implementation by the lead agency.

(9) If cancellation of a contract with a lead agency occurs in a manner that threatens a lapse in services, the department may procure and contract pursuant to s. 287.057(3)(a).

(10) Upon a lead agency's receipt of a third consecutive "D" grade or lower, the department must initiate proceedings to terminate any contract with the lead agency.

(11) At any time, the secretary may offer resources to a lead agency to address any deficiencies in meeting performance standards and metrics which directly impact the safety of children.

(12) Notwithstanding subsections (5) through (11), the secretary, at his or her discretion, may terminate a contract with a lead agency that has received an "F" grade or upon the occurrence of an egregious act or omission by the lead agency or its subcontractor.

(13) The lead agency shall pay any federal fines incurred by the department as the result of that lead agency's failure to comply with the performance standards and metrics.

(14) If the lead agency chooses to subcontract any duties or services, the lead agency shall retain responsibility for its failure to comply with performance standards and metrics.

(15) The department shall adopt rules to administer subsections (2) through (14).

(31)~~(17)~~ The department shall directly or through contract provide attorneys to prepare and present cases in dependency court and shall ensure that the court is provided with adequate information for informed decisionmaking in dependency cases, including a face sheet for each case which lists the names and contact information for any child protective investigator, child protective investigation supervisor, case manager, and case manager supervisor, and the regional department official responsible for the lead agency contract. The department shall provide to the court the case information and recommendations provided by the lead agency or subcontractor. For the Sixth Judicial Circuit, the department shall contract with the state attorney for the provision of these services.

(a) The contracted attorneys shall adopt Florida's Child Welfare Practice Model and operate in accordance with the same federal performance standards and metrics regarding child welfare and protective investigations imposed on the department.

(b) Program performance evaluations shall be collaborative and conducted on an ongoing basis. The department and each contracted attorney or their designee shall meet at least quarterly to collaborate on federal and state quality assurance and continuous quality improvement initiatives.

(c) Annual program performance evaluation shall be based on criteria developed by the department for use with all children's

legal services counsel statewide. The program performance evaluation shall be conducted by a team of peer reviewers from the respective attorneys' offices that perform children's legal services and representatives from the department. The program performance evaluation shall be standardized using a random sample of cases selected by the department. By November 1 of each year, the department shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding quality performance, outcome-measure attainment, and cost efficiency of contracted attorneys who receive general appropriations to provide children's legal services for the department.

(d) At any time, the secretary may offer resources to a contracted attorney to address any performance deficiencies that directly impact the safety of children.

(35)~~(21)~~ The department shall periodically, and before procuring a lead agency, solicit comments and recommendations from the community alliance established in s. 20.19(6) ~~s. 20.19(5)~~, any other community groups, or public hearings. The recommendations must include, but are not limited to:

(a) The current and past performance of a lead agency.

(b) The relationship between a lead agency and its community partners.

(c) Any local conditions or service needs in child protection and child welfare.

Section 13. Subsection (4) is added to section 409.997, Florida Statutes, and subsection (2) of that section is republished, to read:

409.997 Child welfare results-oriented accountability

program.—

(2) The purpose of the results-oriented accountability program is to monitor and measure the use of resources, the quality and amount of services provided, and child and family outcomes. The program includes data analysis, research review, and evaluation. The program shall produce an assessment of individual entities' performance, as well as the performance of groups of entities working together on a local, regional, and statewide basis to provide an integrated system of care. Data analyzed and communicated through the accountability program shall inform the department's development and maintenance of an inclusive, interactive, and evidence-supported program of quality improvement which promotes individual skill building as well as organizational learning. Additionally, outcome data generated by the program may be used as the basis for payment of performance incentives if funds for such payments are made available through the General Appropriations Act. The information compiled and utilized in the accountability program must incorporate, at a minimum:

(a) Valid and reliable outcome measures for each of the goals specified in this subsection. The outcome data set must consist of a limited number of understandable measures using available data to quantify outcomes as children move through the system of care. Such measures may aggregate multiple variables that affect the overall achievement of the outcome goals. Valid and reliable measures must be based on adequate sample sizes, be gathered over suitable time periods, and reflect authentic rather than spurious results, and may not be susceptible to manipulation.

(b) Regular and periodic monitoring activities that track the identified outcome measures on a statewide, regional, and provider-specific basis. Monitoring reports must identify trends and chart progress toward achievement of the goals specified in this subsection. The accountability program may not rank or compare performance among community-based care regions unless adequate and specific adjustments are adopted which account for the diversity in regions' demographics, resources, and other relevant characteristics. The requirements of the monitoring program may be incorporated into the department's quality assurance program.

(c) An analytical framework that builds on the results of the outcomes monitoring procedures and assesses the statistical validity of observed associations between child welfare interventions and the measured outcomes. The analysis must use quantitative methods to adjust for variations in demographic or other conditions. The analysis must include longitudinal studies to evaluate longer term outcomes, such as continued safety, family permanence, and transition to self-sufficiency. The analysis may also include qualitative research methods to provide insight into statistical patterns.

(d) A program of research review to identify interventions that are supported by evidence as causally linked to improved outcomes.

(e) An ongoing process of evaluation to determine the efficacy and effectiveness of various interventions. Efficacy evaluation is intended to determine the validity of a causal relationship between an intervention and an outcome. Effectiveness evaluation is intended to determine the extent to

which the results can be generalized.

(f) Procedures for making the results of the accountability program transparent for all parties involved in the child welfare system as well as policymakers and the public, which shall be updated at least quarterly and published on the department's website in a manner that allows custom searches of the performance data. The presentation of the data shall provide a comprehensible, visual report card for the state and each community-based care region, indicating the current status of the outcomes relative to each goal and trends in that status over time. The presentation shall identify and report outcome measures that assess the performance of the department, the community-based care lead agencies, and their subcontractors working together to provide an integrated system of care.

(g) An annual performance report that is provided to interested parties including the dependency judge or judges in the community-based care service area. The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year.

(4) Data generated in accordance with this section shall be provided directly to the department's Office of Quality Assurance and Improvement in a manner dictated by the department. The department shall conduct an onsite program performance evaluation of each lead agency at least once per year. The department must also have access to make onsite visits at its discretion to any provider contracted by the lead agency. The onsite evaluation must consist of a review using a random sample of cases selected by the department.

Section 14. Paragraph (t) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01(44) ~~s. 39.01(41)~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

Section 15. Subsections (1) and (19) of section 39.502, Florida Statutes, are amended to read:

39.502 Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents must be notified of all proceedings or hearings involving the child. Notice in cases involving shelter hearings and hearings resulting from medical emergencies must be that most likely to result in actual notice to the parents. In all other dependency proceedings, notice must be provided in accordance with subsections (4)-(9), except when a relative requests notification pursuant to s. 39.301(15)(b) ~~s.~~

~~39.301(14)(b)~~, in which case notice shall be provided pursuant to subsection (19).

(19) In all proceedings and hearings under this chapter, the attorney for the department shall notify, orally or in writing, a relative requesting notification pursuant to s. 39.301(15)(b) ~~s. 39.301(14)(b)~~ of the date, time, and location of such proceedings and hearings, and notify the relative that he or she has the right to attend all subsequent proceedings and hearings, to submit reports to the court, and to speak to the court regarding the child, if the relative so desires. The court has the discretion to release the attorney for the department from notifying a relative who requested notification pursuant to s. 39.301(15)(b) ~~s. 39.301(14)(b)~~ if the relative's involvement is determined to be impeding the dependency process or detrimental to the child's well-being.

Section 16. Paragraph (c) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(38)(g) ~~s. 39.01(35)(g)~~ demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a

person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must set forth the powers of the custodian of the child and include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if

permanency has been established for the child.

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

Section 17. Subsection (5) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(5) The case plan must describe:

(a) The role of the foster parents or legal custodians when developing the services that are to be provided to the child, foster parents, or legal custodians;

(b) The responsibility of the case manager to forward a relative's request to receive notification of all proceedings and hearings submitted pursuant to s. 39.301(15)(b) ~~s. 39.301(14)(b)~~ to the attorney for the department;

(c) The minimum number of face-to-face meetings to be held each month between the parents and the department's family services counselors to review the progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements; and

(d) The parent's responsibility for financial support of the child, including, but not limited to, health insurance and child support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support shall be made independently of any determination of indigency under s. 39.013.

Section 18. Paragraph (c) of subsection (1) of section

39.6012, Florida Statutes, is amended to read:

39.6012 Case plan tasks; services.—

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(c) If there is evidence of harm as defined in s. 39.01(38)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

Section 19. Paragraph (g) of subsection (1) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.—

(1) GENERAL PROVISIONS.—

(g) The attorney for the department shall notify a relative who submits a request for notification of all proceedings and hearings pursuant to s. 39.301(15)(b) ~~s. 39.301(14)(b)~~. The notice shall include the date, time, and location of the next judicial review hearing.

Section 20. Section 39.823, Florida Statutes, is amended to read:

39.823 Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. 39.301(15) ~~s. 39.301(14)~~. The relative or other adult may be left with a child

who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 21. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01(58) ~~s. 39.01(55)~~, an authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license signs the minor's application for a learner's driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 22. Paragraph (b) of subsection (5) of section 393.065, Florida Statutes, is amended to read:

393.065 Application and eligibility determination.—

(5) The agency shall assign and provide priority to clients waiting for waiver services in the following order:

(b) Category 2, which includes individuals on the waiting list who are:

1. From the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either:

a. Transitioning out of the child welfare system at the finalization of an adoption, a reunification with family members, a permanent placement with a relative, or a guardianship with a nonrelative; or

b. At least 18 years but not yet 22 years of age and who need both waiver services and extended foster care services; or

2. At least 18 years but not yet 22 years of age and who withdrew consent pursuant to s. 39.6251(5)(c) to remain in the extended foster care system.

For individuals who are at least 18 years but not yet 22 years of age and who are eligible under sub-subparagraph 1.b., the agency shall provide waiver services, including residential habilitation, and the community-based care lead agency shall fund room and board at the rate established in s. 409.145(4) and provide case management and related services as defined in s. 409.986(3)(h) ~~s. 409.986(3)(c)~~. Individuals may receive both waiver services and services under s. 39.6251. Services may not duplicate services available through the Medicaid state plan.

Within categories 3, 4, 5, 6, and 7, the agency shall maintain a

waiting list of clients placed in the order of the date that the client is determined eligible for waiver services.

Section 23. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(81)(g) ~~s. 39.01(77)(g)~~.

Section 24. Paragraph (a) of subsection (1) of section 394.674, Florida Statutes, is amended to read:

394.674 Eligibility for publicly funded substance abuse and mental health services; fee collection requirements.—

(1) To be eligible to receive substance abuse and mental health services funded by the department, an individual must be a member of at least one of the department's priority populations approved by the Legislature. The priority populations include:

(a) For adult mental health services:

1. Adults who have severe and persistent mental illness, as designated by the department using criteria that include severity of diagnosis, duration of the mental illness, ability to independently perform activities of daily living, and receipt of disability income for a psychiatric condition. Included within this group are:

a. Older adults in crisis.

b. Older adults who are at risk of being placed in a more

restrictive environment because of their mental illness.

c. Persons deemed incompetent to proceed or not guilty by reason of insanity under chapter 916.

d. Other persons involved in the criminal justice system.

e. Persons diagnosed as having co-occurring mental illness and substance abuse disorders.

2. Persons who are experiencing an acute mental or emotional crisis as defined in s. 394.67(18) ~~s. 394.67(17)~~.

Section 25. Subsection (2) of section 409.987, Florida Statutes, is amended to read:

409.987 Lead agency procurement.—

(2) The department shall produce a schedule for the procurement of community-based care lead agencies and provide the schedule to the community alliances established pursuant to s. 20.19(6) ~~s. 20.19(5)~~ and post the schedule on the department's website.

Section 26. Paragraph (c) of subsection (1) of section 409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(c) Shall follow the financial guidelines developed by the department and provide for a regular independent auditing of its financial activities. Such financial information shall be provided to the community alliance established under s. 20.19(6) ~~s. 20.19(5)~~.

Section 27. Section 627.746, Florida Statutes, is amended to read:

627.746 Coverage for minors who have a learner's driver license; additional premium prohibited.—An insurer that issues

an insurance policy on a private passenger motor vehicle to a named insured who is a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01(58) ~~s. 39.01(55)~~ may not charge an additional premium for coverage of the minor while the minor is operating the insured vehicle, for the period of time that the minor has a learner's driver license, until such time as the minor obtains a driver license.

Section 28. Paragraph (c) of subsection (1) of section 934.255, Florida Statutes, is amended to read:

934.255 Subpoenas in investigations of sexual offenses.—

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

(c) "Sexual abuse of a child" means a criminal offense based on any conduct described in s. 39.01(81) ~~s. 39.01(77)~~.

Section 29. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(81)(g) ~~s. 39.01(77)(g)~~.

Section 30. For the purpose of incorporating the amendment made by this act to section 39.201, Florida Statutes, in a reference thereto, subsection (1) of section 39.302, Florida Statutes, is reenacted and amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse,

abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(40) or (57) ~~s. 39.01(37) or (54)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframes ~~timeframe~~ established under s. 39.201(5) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to

the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 31. For the purpose of incorporating the amendment made by this act to section 409.997, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 409.988, Florida Statutes, is reenacted to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(b) Shall provide accurate and timely information necessary for oversight by the department pursuant to the child welfare results-oriented accountability system required by s. 409.997.

Section 32. For the purpose of incorporating the amendment made by this act to section 409.997, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 409.996, Florida Statutes, is reenacted to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(1) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies pursuant to s. 409.988. At a minimum, the contracts must:

(a) Provide for the services needed to accomplish the duties established in s. 409.988 and provide information to the

department which is necessary to meet the requirements for a quality assurance program pursuant to subsection (18) and the child welfare results-oriented accountability system pursuant to s. 409.997.

Section 33. This act shall take effect July 1, 2020.

The Florida Senate

Committee Agenda Request

To: Senator Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 31st, 2020

I respectfully request that **Senate Bill 1326**, relating to **DCF Accountibility**, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Wilton Simpson
Florida Senate, District 10

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 1394
INTRODUCER:	Appropriations Committee; Innovation, Industry, and Technology Committee; and Senator Simmons
SUBJECT:	Fees
DATE:	February 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	IT	**Fav/CS**
2.	Gross	Diez-Arguelles	FT	**Favorable**
3.	Gross	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 1394 amends the definition of the term "tobacco products" in section 569.002, Florida Statutes, as amended by CS/CS/CS SB 810 or similar legislation during the 2020 Regular Session. The bill amends the term "tobacco products" to include vapor-generating electronic devices (vaping products) and any substances that may be aerosolized or vaporized by such devices, whether or not any of the substances contain nicotine.

By revising the definition of "tobacco products" to include vapor-generating electronic devices, the bill requires a retail dealer of vapor-generating electronic devices, such as electronic cigarettes, to pay an annual license fee of $50 for a retail tobacco product dealer permit.

The bill takes effect on the same date that CS/CS/CS SB 810 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof. CS/CS/CS/SB 810 provides an effective date of October 1, 2020, contingent upon the passage of CS/CS/SB 1394 being adopted in the same legislative session or an extension thereof and becoming law.

Article VII, section 19 of the Florida Constitution requires that a tax or fee imposed by the Legislature must be contained in a separate bill that contains no other subject and must be approved by two-thirds of the membership of each house of the Legislature.

II. Present Situation:

CS/CS/CS/SB 810

CS/CS/CS/SB 810, relating to tobacco products, amends s. 569.002, F.S., which provides definitions related to the regulation of the retail sale of tobacco products, to redefine the term "tobacco products" to include:

- Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; or
- Any component, part, or accessory of a product described above, whether or not any of these contain tobacco or nicotine, including but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes.

Under the CS/CS/CS/SB 810, the term "tobacco products" does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

CS/CS/CS/SB 810 increases the minimum age to lawfully purchase and possess tobacco products from 18 years of age to 21 years of age.

CS/CS/CS/SB 810 provides an effective date of October 1, 2020, contingent upon the passage of CS/CS/SB 1394 being adopted in the same legislative session or an extension thereof and becoming law.

CS/CS/CS/SB 810 repeals s. 877.112, F.S., to eliminate the prohibition on the sale or delivery of tobacco products, nicotine dispensing devices, and nicotine products to persons under the age of 18. Many of these provisions are incorporated into the provisions of ch. 569, F.S., by CS/CS/CS/SB 810 as amended by CS/CS/SB 1394.

Regulation of Vaping

During the 2019 legislative session, CS/SB 7012[1] was enacted to implement Amendment 9 to the Florida Constitution,[2] which was approved by the voters of Florida on November 6, 2018, to ban the use of vapor-generating electronic devices, such as electronic cigarettes (e-cigarettes), in enclosed indoor workplaces, as part of the Florida Clean Indoor Air Act. The use of e-cigarettes is commonly referred to as vaping.

The use of vapor-generating electronic devices is permitted in the enclosed indoor workplace of a "vapor-generating device retailer" or "retail vape shop," which is defined as "any enclosed indoor workplace dedicated to or predominantly for the retail sale of vapor-generating electronic devices and components, parts, and accessories for such products, in which the sale of other products or services is merely incidental." Vaping is permitted at the same locations authorized

[1] *See* ch. 2019-14, Laws of Fla.
[2] FLA. CONST. art. X, s. 20.

to permit tobacco smoking, i.e., private residences whenever not being used for certain commercial purposes, stand-alone bars, designated rooms in hotels and other public lodging establishments, retail tobacco shops, facilities owned or leased by a membership association, smoking cessation program locations, medical or scientific research locations, and customs smoking rooms in airport in-transit lounges.

Local governments may adopt more restrictive local ordinances on the use of vapor-generating electronic devices.

The above provisions were approved by the Governor and took effect July 1, 2019.

Unlike the retail sale of tobacco products, which is subject to regulation under ch. 569, F.S., the sale of vape products is only regulated under the provisions of s. 877.112, F.S. While tobacco products in Florida are subject to specific taxation under ch. 210, F.S., vaping products are only subject to sales taxes.

Nicotine Dispensing Devices

Section 877.112, F.S., provides requirements for the sale of nicotine dispensing devices and nicotine products to minors, such as electronic cigarettes (e-cigarettes). This statute extends the current prohibitions related to tobacco products to the sale, gifting, possession, or use of nicotine dispensing devices and nicotine products to and by persons under 18 years of age.

A "nicotine dispensing device" is:

> any product that employs an electronic, chemical, or mechanical means to produce vapor from a nicotine product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of nicotine in a solution or other form intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.[3]

A "nicotine product" is:

> any product that contains nicotine, including liquid nicotine intended for human consumption, whether inhaled, chewed, absorbed, dissolved or ingested by any means. The definition does not include a tobacco product under Florida law, a drug or device under federal law, or a product that contains incidental nicotine.[4]

The sale or giving of nicotine products or nicotine dispensing devices to any person under 18 years of age is prohibited and punishable as a second degree misdemeanor.[5] It is a complete defense to a violation if an underage person falsely misrepresented his or her age, the underage

[3] Section 877.112(1)(a), F.S.
[4] Section 877.112(1)(b), F.S.
[5] Section 775.082, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a fine not to exceed $500.

person had the appearance to a prudent person to 18 years of age or older, and the person carefully checked, and relied on, the driver license or identification card of the recipient.[6]

Persons under 18 years of age possessing, purchasing, or misrepresenting their age or military service to obtain nicotine products or nicotine dispensing devices commit a noncriminal violation. The penalty is 16 hours of community service or a $25 fine for a first violation, and attendance at a school-approved anti-tobacco and nicotine program, if available. A second or subsequent violation within 12 weeks of the first violation requires a $25 fine. Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.[7]

If a person under 18 years of age is found by the court to have committed such a noncriminal violation and that person has failed to complete community service, pay the required fine, or attend a school-approved anti-tobacco and nicotine program, if locally available, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver license or driving privilege of that person for 30 or 45 consecutive days, depending on the infraction.[8]

Eighty percent of civil penalties specific to possession of nicotine products or nicotine dispensing devices by minors and misrepresenting age in making such purchases are remitted to the Department of Revenue for transfer to the Department of Education for teacher training and for research and evaluation to reduce and prevent the use of tobacco products, nicotine products, or nicotine dispensing devices by children. The remaining 20 percent of civil penalties received by a county court are retained by the clerk of the county court to cover administrative costs.[9]

Subsection 877.112(10), F.S., requires a retail dealer of nicotine products and nicotine dispensing devices to post signs that the sale of nicotine products and nicotine dispensing devices to persons under 18 years of age is prohibited.

Nicotine products or nicotine dispensing devices may not be sold or delivered by self-service merchandising, except when such products are under the direct control of, or in the line of sight where effective control may be reasonably maintained by, the retailer or their agent or employee.[10]

To prevent persons under 18 years of age from purchasing or receiving nicotine products or nicotine dispensing devices, s. 877.112(12), F.S., requires retailers to comply with restrictions identical to the restrictions on the sale of tobacco products in s. 569.007(1), F.S., such as requiring the products to be sold or delivered only when under the direct control or line of sight of the retailer and requiring a lock-out device if the products are sold or delivered from a vending machine.

[6] Section 877.112(5), F.S.
[7] Sections 877.112(6) and (7), F.S.
[8] Section 877.112(8), F.S.
[9] Section 877.112(9), F.S.
[10] Section 877.112(11), F.S.

Rates of Youth Vaping

According to recent data from the federal Centers for Disease Control and Prevention (CDC), more than one in four high school students is an e-cigarette user.[11] That represents an increase from approximately one in five last year. At the same time, around 10 percent of middle school students reported using e-cigarettes in the month prior to being surveyed, up from around 5 percent last year. Nearly 70 percent of e-cigarette users reported using a flavored product, and the availability of flavors such as mint and chocolate was a reason that many students cited for trying e-cigarettes. The findings come a year after the U.S. Surgeon General declared the surge in youth vaping an epidemic.[12]

Health Issues Relating to Vaping

The findings noted above regarding the increases in youth vaping come at the same time that the CDC is conducting an ongoing national investigation of vaping-related lung injuries. The CDC, the federal Food and Drug Administration (FDA), state and local health departments, and public health and clinical stakeholders have spent the past several months investigating and monitoring the nationwide illness outbreak. The condition has been labelled as **E**-cigarette, or **V**aping, product use-**A**ssociated **L**ung **I**njury, or EVALI. The latest count from the CDC finds that 2,409 people have been hospitalized and 52 people have died across 25 states and Washington, D.C., as of December 10, 2019.[13] Two of the deaths have occurred in Florida, and 103 cases of vaping-related illness hospitalizations have been documented in Florida as of December 3, 2019.[14]

National Minimum Age of Sale of Tobacco Products

As part of the federal budget revisions adopted in December 2019, and signed into law on December 20, 2019, the minimum age for the sale of tobacco products is now 21 years of age.[15] The specific tobacco provisions in the budget document amended section 906(d) of the Federal Food, Drug, and Cosmetic Act to increase the federal minimum age to purchase tobacco products from 18 to 21, and to add a provision that it is unlawful for any retailer to sell a tobacco product to any person younger than age 21. The provisions also require the FDA to update its applicable tobacco regulations within specified timelines.

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[11] *See* "Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019" Centers for Disease Control and Prevention- Morbidity and Mortality Weekly Report (MMWR), (December 6, 2019), *available at* https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm (last visited Feb. 6, 2020).

[12] *See* "Surgeon General Warns Youth Vaping Is Now An 'Epidemic," December 18, 2018, *available at* https://www.npr.org/sections/health-shots/2018/12/18/677755266/surgeon-general-warns-youth-vaping-is-now-an-epidemic (last visited Feb. 6, 2020).

[13] Mikosz CA, Danielson M, Anderson KN, et al. Characteristics of Patients Experiencing Rehospitalization or Death After Hospital Discharge in a Nationwide Outbreak of E-cigarette, or Vaping, Product Use–Associated Lung Injury — United States, 2019. CDC, *Morbidity & Mortality Weekly Report 2020;68:1183-1188*. (December 20, 2019), *available at* http://dx.doi.org/10.15585/mmwr.mm685152e1 (last visited Feb. 6, 2020).

[14] *See* "Florida reports second vaping death" (December 11, 2019), *available at* http://www.orlandosentinel.com/news/os-ne-florida-reports-second-vaping-death-20191211-dvz3tehxevbpvkcavhe2jdiepe-story.html (last visited Feb. 6, 2020).

[15] *See* the "Further Consolidated Appropriations Act, 2020," Rules Committee print 116-44, Text of the House Amendment to the Senate Amendment to H.R. 1865, December 16, 2019, beginning at page 1492 of 1773, *available at* https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-116HR1865SA-RCP116-44.PDF (last visited Feb. 6, 2020).

As part of this rule update process, the FDA is to update the relevant age verification requirements to require age verification for individuals under age 30 (as opposed to the current age verification threshold for individuals under age 27). This topic had been under consideration for some time, and adoption of the changes were the result of the recent increased vaping rates among youth as highlighted above, the recent EVALI cases as highlighted above, and the adoption of age 21 as the minimum age for purchase of tobacco products in multiple states as highlighted in the **Related Issues** portion of this analysis.

FDA Guidance Document

On January 2, 2020, the FDA released "Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market without Premarket Authorization" (FDA Guidance Document) as a Guidance for Industry document.[16] (For all intents and purposes, the reference to ENDS products is a reference to vaping products.) The Guidance Document's introduction describes how the FDA intends to prioritize its enforcement resources with regard to the marketing of certain deemed tobacco products that do not have premarket authorization.

The introduction further indicates that, as with FDA's prior compliance policies on deemed new tobacco products that do not have premarket authorization, this guidance document does not apply to any deemed product that was not on the market on August 8, 2016.[17] For ENDS products marketed without the FDA's authorization, the FDA intends to prioritize enforcement against:

- Any flavored, cartridge-based ENDS product (other than a tobacco- or menthol-flavored ENDS product);
- All other ENDS products for which the manufacturer has failed to take (or is failing to take) adequate measures to prevent minors' access; and
- Any ENDS product that is targeted to minors or whose marketing is likely to promote use of ENDS by minors.

[16] *See* "Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market without Premarket Authorization: Guidance for Industry, released by the U.S. Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, (January 2, 2020), *available at* https://www.fda.gov/media/133880/download (last visited Feb. 6, 2020). The document as released is a follow-up to a draft document that was released by the FDA in March 2019. Appendix A of the document, consisting of pages 32-52 of the 52 page document, reflects FDA's response to comments received on the March 2019 draft document.

[17] A brief explanation of "deeming" is helpful in this context. The Family Smoking Prevention and Tobacco Control Act (2009) (the act) gave the FDA the authority to regulate tobacco products. The act broadly defined "tobacco products" as any product that is "made or derived from tobacco" that is "intended for human consumption." However, the act, when passed, only immediately applied to a few specific products, namely cigarettes, cigarette tobacco, smokeless tobacco, and roll-your-own tobacco. To regulate any other tobacco products, the act requires the FDA to assert jurisdiction through regulation. In other words, for the FDA to start regulating cigars, e-cigarettes, hookah, and other products currently unregulated by the federal government, the FDA must create a rule through its formal notice-and-comment rulemaking process. A rule, or regulation, that extends the FDA's jurisdiction to all tobacco products is often referred to as a Deeming Regulation because the language of the Tobacco Control Act states that the FDA can regulate additional tobacco products that it "deems to be subject" to the act. While this process exists and has been used, its use is infrequent. From *A Deeming Regulation: What is Possible Under the Law*, Tobacco Control Legal Consortium, *available at* https://www.publichealthlawcenter.org/sites/default/files/resources/tclc-fs-deeming-reg-what-is-possible-2014.pdf (last visited Feb. 6, 2020).

The Guidance Document provides background details of the FDA's statutory and regulatory history of tobacco related products, evidence of increasing youth use of vaping products, applicable definitions, enforcement priorities, strategies for avoiding use of "black market" products, and the FDA's logic regarding enforcement and pre-market review for other deemed new tobacco products.

III. Effect of Proposed Changes:

The bill amends the definition for the term "tobacco products" in s. 569.002, F.S., as amended by SB 810 or similar legislation during the 2020 Regular Session or an extension thereof. The bill amends the meaning of the term "tobacco products" to include vapor-generating electronic devices (vaping products) and any substances that may be aerosolized or vaporized by such device, whether or not any of the substance contains nicotine.

The bill defines the term "vapor-generating electronic device" to mean:

> [A]ny product that employs an electronic, chemical, or mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product; any replacement cartridge for such device; and any other container of nicotine in a solution or other substance form intended to be used with or within an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, a vape pen, an electronic hookah, or other similar device or product. The term includes any component, part, or accessory of the device and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine.

Under the bill, the term "vapor-generating electronic device" does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

By revising the definition of "tobacco products" to include vapor-generating electronic devices, the bill requires a retail dealer of vapor-generating electronic devices, such as electronic cigarettes, to pay an annual license fee of $50 for a retail tobacco product dealer permit.[18]

The bill uses the same term, vapor-generating electronic device, used in the Florida Constitution and the Florida Clean Indoor Air Act (act) in prohibition against indoor vaping.[19] The definition for the term in the bill and in the Florida Constitution and the act are consistent.

The bill takes effect on the same date that SB 810 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof. CS/CS/CS/SB 810

[18] *See* s. 569.003(1)(c), F.S.
[19] *See* FLA. CONST. art. X, s. 20.

provides an effective date of October 1, 2020, contingent upon the passage of CS/CS/SB 1394 being adopted in the same legislative session or an extension thereof and 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:

The bill amends s. 569.002(7), F.S., to revise the definition of "tobacco products" to include vapor-generating electronic devices. By amending the definition, the bill requires retail dealers of vapor-generating electronic device, such as electronic cigarettes, to pay an annual license fee of $50 for a retail tobacco product dealer permit.[20]

Article VII, s. 19 of the Florida Constitution requires a "state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject." A "fee" is defined by the Florida Constitution to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."[21]

Article VII, s. 19 of the Florida Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[20] *See* s. 569.003(1)(c), F.S.
[21] FLA. CONST. art. VII, s. 19(d)(1)

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends s. 569.002(7), F.S., to modify the definition of "tobacco products" in the context of the regulation of the retail sale of tobacco products.

Section 210.25(11), F.S., also defines the term "tobacco products" but does so to impose on those tobacco products an excise tax and surcharge and to require recordkeeping, licensure, and reporting by distributors. Because the bill does not revise this definition, the bill will not subject vapor-generating electronic devices, or substances aerosolized by such devices, to the excise tax or surcharge or require recordkeeping, licensure, and reporting by distributors.

Types of Vaping Devices Subject to Federal Enforcement Priorities

It should be noted that the vaping devices that will be subject to enhanced enforcement by the federal FDA under its January 2, 2020, guidance document are those vaping devices that are cartridge-based.[22] This means that tank-based vaping devices will not be subject to enhanced federal FDA enforcement.

VIII. Statutes Affected:

This bill substantially amends section 569.002 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 20, 2020:
The committee substitute amends subsection numbers to conform to changes made by amendment 811930 to CS/CS/SB 810.

CS by Innovation, Industry, and Technology on February 3, 2020:
The CS:

[22] *Supra* note 16.

- Does not amend s. 210.25, F.S., to revise the definition of the term "tobacco products" to include nicotine dispensing devices and nicotine products as defined in s. 877.112, F.S.
- Does not republish ss. 210.276 and 210.30, F.S, to impose the surcharge tax and excise tax, respectively, on nicotine dispensing devices and nicotine products, and to subject distributors of nicotine dispensing devices and nicotine products to tax reporting and recordkeeping requirements.
- Changes the title of the bill from an act relating to "taxes and fees" to an act relating to "fees."
- Amends the term "tobacco products" in s. 569.002, F.S., as amended by SB 810 or similar legislation during the 2020 Regular Session or an extension thereof, to include vapor-generating electronic devices.
- Revises the effective date of the bill to provide that the bill takes effect on the same date that SB 810 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof.

B. Amendments:

None.

874146

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment

Delete lines 13 - 36
and insert:
Section 1. Subsection (7) of section 569.002, Florida Statutes, as amended by SB 810 or similar legislation, 2020 Regular Session, is amended, and subsection (8) is added to that section, to read:
569.002 Definitions.—As used in this chapter, the term:
(7) "Tobacco products" includes:

874146

(a) Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

(b) Any vapor-generating electronic device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

(c) Any component, part, or accessory of a product described in paragraph (a) or paragraph (b), whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes.

The term does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(8) "Vapor-generating electronic device" means any product

By the Committee on Innovation, Industry, and Technology; and Senator Simmons

580-03012-20 20201394c1

A bill to be entitled

An act relating to fees; amending s. 569.002, F.S.; expanding the definition of the term "tobacco products" to include vapor-generating electronic devices and components, parts, and accessories of such devices and to include substances that may be aerosolized or vaporized by such devices; defining the term "vapor-generating electronic device"; providing a contingent effective date.

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

Section 1. Subsection (6) of section 569.002, Florida Statutes, as amended by SB 810 or similar legislation, 2020 Regular Session, is amended, and subsection (7) is added to that section, to read:

569.002 Definitions.—As used in this chapter, the term:

(6) "Tobacco products" includes:

(a) Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

(b) Any vapor-generating electronic device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

(c) Any component, part, or accessory of a product described in paragraph (a) or paragraph (b), whether or not any of these contain tobacco or nicotine, including, but not limited

580-03012-20 20201394c1

to, filters, rolling papers, blunt or hemp wraps, and pipes.

The term does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(7) "Vapor-generating electronic device" means any product that employs an electronic, chemical, or mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product; any replacement cartridge for such device; and any other container of nicotine in a solution or other substance form intended to be used with or within an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, a vape pen, an electronic hookah, or other similar device or product. The term includes any component, part, or accessory of the device and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine. The term does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Section 2. This act shall take effect on the same date that SB 810 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 14, 2020

I respectfully request that **Senate Bill 1394**, relating to CS/SB 1394 Fees/Tobacco Products, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 9

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/20
Meeting Date

SB 1394
Bill Number (if applicable)

Topic SB 1394

Amendment Barcode (if applicable)

Name Robert Lovett

Job Title President - FSFA

Address 407 Park Blvd
Street

Oldsmar FL 34677
City *State* *Zip*

Phone

Email robert@flsmokefree.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Smoke Free 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)

2/20/20
Meeting Date

SB 1394
Bill Number (if applicable)

Topic SB 1394

Amendment Barcode (if applicable)

Name Kino Becton

Job Title Regional Government Affairs

Address 150 Forsythia Ln
Street

Tega SC 29708
City *State* *Zip*

Phone 636-445-2522

Email becton@vopantechnology.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing VTA

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)

2/20/2020
Meeting Date

8104394
Bill Number (if applicable)

Topic Vaping Ban

Amendment Barcode (if applicable)

Name Beth Chandler

Job Title

Address 10066 Spring Sink Rd
Street
Tallahassee
City *State* *Zip*

Phone 567-1070

Email jobeth89@gmail

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)

February 20, 2020
Meeting Date

SB 1394
Bill Number (if applicable)

Topic Fees/Tobacco Products

Amendment Barcode (if applicable)

Name Ashely Lyerly

Job Title Director of Advocacy for Florida

Address 1678 Mongormery Highway, Suite 104-355
Street

Phone 205-968-2266

Hoover AL 35216
City *State* *Zip*

Email ashley.lyerly@lung.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Lung 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)

2-20-20
Meeting Date

SB 810 - 1394
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Vaping Bond

Name Lillie MEinhardt

Job Title Store Manager

Address 712 River Plantation Blvd
Street

Crawfordville FL 32327
City *State* *Zip*

Phone

Email

Speaking: ~~For~~ ~~Against~~ Information

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

Representing South Ga Vapor

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)

2/20/2020
Meeting Date

1394
Bill Number (if applicable)

Topic Fccg Tobacco Products

Amendment Barcode (if applicable)

Name Scott R. Goodlin

Job Title Grassroots Manager

Address 1718 Tall pines Drive
Street

Phone 404 855 0588

Largo *City* FL *State* 33771 *Zip*

Email Storm.Goodlin@Cancer.org

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

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

Representing American Cancer Society Cancer Action Network

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/14/14)

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 1714
INTRODUCER:	Senator Bradley
SUBJECT:	Sale of Surplus State-owned Office Buildings and Associated Nonconservation Lands
DATE:	February 19, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	McVaney	GO	**Favorable**
2.	Davis/Betta	Betta	AEG	**Recommend: Favorable**
3.	Davis/Betta	Kynoch	AP	**Favorable**

I. Summary:

SB 1714 amends sections 215.196 and 253.0341, Florida Statutes, to provide that funds received through the sale of surplus state-owned office buildings and associated nonconservation lands are deposited into the Architects Incidental Trust Fund as opposed to the Internal Improvement Trust Fund, and must be used for the acquisition, lease, planning, entitlement, design, permitting, construction, or maintenance of state-owned office buildings.

The bill also removes the requirement that state universities and Florida College System institutions be offered to lease a building or parcel of land with priority consideration before the same is offered to another government entity or private party.

The bill also provides that when appraising surplus lands' value, the Division of State Lands must base the value on the "highest and best use" of the property after considering any applicable developmental rights.

The bill may have a positive impact on state government revenues. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Architects Incidental Trust Fund

The Architects Incidental Trust Fund was created to provide sufficient funds for the operation of the facilities development activities of the Department of Management Services (department). The department may levy and assess an amount necessary to cover costs associated with fixed capital outlay projects (real property, including additions, replacements, major repairs, furnishing, and renovations) on which it serves as owner representative. The assessment rate is

provided in the General Appropriations Act based on estimated operating cost projections for the services to be rendered. Assessments collected are transferred into the Architects Incidental Trust Fund at the beginning of each fiscal year.[1]

The Internal Improvement Trust Fund and Surplus of State-Owned Lands

In 1855, the Trustees of the Internal Improvement Trust Fund (IITF) was created to oversee the management, sale and development of public lands granted to the State through congressional acts.[2] The Governor and Cabinet serve as the Board of Trustees of the IITF.[3] The board is charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state or any of its agencies, departments, boards, or commissions.[4] The board of the IITF controls land where title to the property is vested in the IITF, including the sale or lease of any such land.

The board of the IITF further determines which lands owned by the IITF may be surplused.[5] Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, the IITF must first offer the building or parcel to state agencies, state universities, and Florida College System institutions. Priority is given to universities and institutions, who have 60 days to submit a leasing plan to the board regarding the intended use. In the last five years there have been at least five leases given to universities and one land exchange with a university following the universities' exercise of priority rights. State agencies requesting the land must also submit a plan within 60 days; their plan must include the intended use, the estimated cost of renovation, a capital improvement plan for any building, and evidence that the building or parcel meets an existing need that cannot otherwise be met.[6]

In practice, such a lease can be executed for up to 50 years. Pursuant to Rule 18-2.020(8), F.A.C., an annual administrative fee of $300 to occupy state-owned nonconservation land is assessed. No other fees are assessed to a state university or college.[7]

The sale price of surplus lands is determined by the Division of State Lands in consultation with an outside appraisal, a comparable sales analysis, or a broker's opinion. An individual or entity that requests to purchase the surplus land pays all costs associated with determining the property's value, if any.[8] The revenue received from any sales of such land are deposited in the IITF with no specified use.[9]

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[1] Section 215.196, F.S.
[2] *See* Internal Improvement Fund, http://digitalcollections.fiu.edu/iif/about.htm (last visited January 30, 2020); *see also* s. 253.01, F.S.
[3] FLA CONST Art. IV, s. 1(4)(f)
[4] Section 253.03(1), F.S.
[5] Section 253.0341(1), F.S.
[6] Section 253.0341(7), F.S.
[7] Department of Management Services, Agency Analysis of 2020 Senate Bill 1714, Jan 29, 2020 (on file with Senate Committee on Government Oversight and Accountability).
[8] Section 253.0341(8), F.S.
[9] 253.0341(14), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 215.196, F.S., to provide that funds received through the sale of surplus state-owned office buildings[10] and associated nonconservation lands must be used for the acquisition, lease, planning, entitlement, design, permitting, construction, or maintenance of state-owned office buildings and the nonconservation lands associated with such buildings.

The bill also revises the purpose of the Architects Incidental Trust Fund to include collecting and diverting funds received through the sale of surplus state-owned buildings and the nonconservation lands associated with such buildings.

Section 2 amends s. 253.0341, F.S., to remove the requirement that state universities and Florida College System institutions be offered to lease a building or parcel of land with priority consideration before the same is offered to another government entity or private party. The section also removes related language for the university or institution submitting the plan for intended use.

The bill also provides that when appraising surplus lands' value, the Division of State Lands must base the value on the "highest and best use" of the property after considering any applicable developmental rights. The bill defines "highest and best use" as the reasonable, probable, and legal use of vacant land or an improved property which is physically possible, appropriately supported, financially feasible, and results in the highest value.

The bill also provides that funds received from the sale of surplus state-owned office buildings and associated nonconservation lands shall be deposited into the Architects Incidental Trust Fund.

Section 3 provides that the bill takes effect July 1, 2020.

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 a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

[10] Section 255.248(9), F.S., "State-owned office building" means any building whose title is vested in the state and which is used by one or more executive agencies predominantly for administrative direction and support functions. The term excludes:
(a) District or area offices established for field operations where law enforcement, military, inspections, road operations, or tourist welcoming functions are performed.
(b) All educational facilities and institutions under the supervision of the Department of Education.
(c) All custodial facilities and institutions used primarily for the care, custody, or treatment of wards of the state.
(d) Buildings or spaces used for legislative activities.
(e) Buildings purchased or constructed from agricultural or citrus trust funds.

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 bill may have a positive fiscal impact for the state. Removing the state universities' and Florida College System institutions' right of first refusal will allow the state to further maximize the sale price of surplus state-owned office buildings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 215.196 and 253.0341.

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 Bradley

5-01404A-20 20201714__

A bill to be entitled

An act relating to the sale of surplus state-owned office buildings and associated nonconservation lands; amending s. 215.196, F.S.; revising the purpose of the Architects Incidental Trust Fund; requiring funds relating to the sale of surplus state-owned office buildings and associated nonconservation lands to be used for certain purposes; amending s. 253.0341, F.S.; revising the entities that the Board of Trustees of the Internal Improvement Trust Fund must offer a lease to before offering certain surplus lands for sale to other specified entities; requiring an appraisal, comparable sales analysis, or broker's opinion of the surplus land's value to consider the highest and best use of the property; defining the term "highest and best use"; requiring funds from the sale of surplus state-owned office buildings and associated nonconservation lands to be deposited into the Architects Incidental Trust Fund; providing an effective date.

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

Section 1. Section 215.196, Florida Statutes, is amended to read:

215.196 Architects Incidental Trust Fund; creation; assessment.—

(1) There is created the Architects Incidental Trust Fund for the purpose of:

5-01404A-20 20201714__

(a) Collecting all funds received through the sale of surplus state-owned office buildings, as defined in s. 255.248, and the nonconservation lands associated with such buildings;

(b) Diverting funds referenced in s. 253.0341(14)(b); and

(c) Providing sufficient funds for the operation of the facilities development activities of the Department of Management Services.

(2) The department may ~~is authorized to~~ levy and assess an amount necessary to cover the cost of administration by the department of fixed capital outlay projects on which it serves as owner representative on behalf of the state. The assessment rate is to be provided in the General Appropriations Act and statement of intent and shall be based on estimated operating cost projections for the services rendered. The total assessment shall be transferred into the Architects Incidental Trust Fund at the beginning of each fiscal year.

(3) Funds received through the sale of surplus state-owned office buildings and the nonconservation lands associated with such buildings must be used for the acquisition, lease, planning, entitlement, design, permitting, construction, or maintenance of state-owned office buildings, as defined in s. 255.248, and the nonconservation lands associated with such buildings.

Section 2. Subsections (7), (8), and (14) of section 253.0341, Florida Statutes, are amended to read:

253.0341 Surplus of state-owned lands.—

(7) Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it must ~~shall~~ first be offered for lease to state

agencies~~, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions~~. ~~Within 60 days after the offer for lease of a surplus building or parcel, a state university or Florida College System institution that requests the lease must submit a plan for review and approval by the Board of Trustees of the Internal Improvement Trust Fund regarding the intended use, including future use, of the building or parcel of land before approval of a lease.~~ Within 60 days after the offer for lease of a surplus building or parcel, a state agency that requests the lease of such facility or parcel must submit a plan for review and approval by the board of trustees regarding the intended use. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel meets an existing need that cannot otherwise be met, and other criteria developed by rule by the board of trustees. The board or its designee shall compare the estimated value of the building or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 for the implementation of this section.

(8) The sale price of lands determined to be surplus pursuant to this section and s. 253.82 shall be determined by the Division of State Lands, which shall consider an appraisal of the property or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The value must be based on the highest and

best use of the property, considering all applicable developmental rights, to ensure the maximum benefit and use to the state as provided in s. 253.03(7)(a). The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any. As used in this subsection, the term "highest and best use" means the reasonable, probable, and legal use of vacant land or an improved property which is physically possible, appropriately supported, financially feasible, and results in the highest value.

(a) A written valuation of land determined to be surplus pursuant to this section and s. 253.82, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The exemption expires 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board of trustees.

2. Before expiration of the exemption, the Division of State Lands may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:

a. During negotiations for the sale or exchange of the land;

b. During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process;

c. When the passage of time has made the conclusions of

value invalid; or

d. When negotiations or marketing efforts concerning the land are concluded.

(b) A unit of government that acquires title to lands pursuant to this section for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for 10 years. A unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board of trustees sold such lands.

(14)(a) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.

(b) Notwithstanding paragraph (a), funds received from the sale of surplus state-owned office buildings, as defined in s. 255.248, and the nonconservation lands associated with such buildings shall be deposited into the Architects Incidental Trust Fund, as established pursuant to s. 215.196.

Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/20/2020
Meeting Date

SB 1714
Bill Number (if applicable)

Topic ~~Sale of~~ Surplus of State-owned Lands

Amendment Barcode (if applicable)

Name Cody Farrill

Job Title Deputy Chief of Staff

Address 4050 Esplanade Way
Street

Tallahassee FL 32399
City *State* *Zip*

Phone 850 922-6535

Email Cody.Farrill@dms.myflorida.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FL Department of Management Services

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 7012 (195908)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); and Children, Families, and Elder Affairs Committee
SUBJECT:	Mental Health
DATE:	February 19, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Delia	Hendon		**CF Submitted as Committee Bill**
1.	Sneed	Kidd	AHS	**Recommend: Fav/CS**
2.	Sneed	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7012 implements several measures related to suicide prevention. Specifically, the bill:

- Broadens the scope and duties of the Statewide Office of Suicide Prevention in the Department of Children and Families (DCF);
- Creates the First Responders Suicide Deterrence Task Force within the Statewide Office of Suicide Prevention to assist in the reduction of suicide rates of first responders;
- Broadens the scope and duties of the Suicide Prevention Coordinating Council and adds five new members to the Council;
- Adds new training and staffing requirements for instructional personnel at public and charter schools;
- Adds new continuing education requirements related to suicide prevention for various health care practitioners;
- Requires certain health insurance plans to comply with federal regulations relating to mental health and substance use disorder coverage to ensure that Floridians that are privately insured have adequate insurance coverage to help prevent suicides;
- Requires Baker Act receiving facilities to provide suicide prevention information resources to minors being released from a facility;
- Provides civil immunity to persons who help or attempt to help others at imminent risk of suicide; and

- Requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report that looks at other states' suicide prevention programs.

The bill is expected to have a significant fiscal impact on state government. The Office of Suicide Prevention in the DCF will need additional staff to meet workload and information sharing requirements. The Department of Transportation, which is required to develop a plan to implement evidence-based suicide deterrent design elements in infrastructure projects, may incur additional project costs. Additionally, the bill has an indeterminate fiscal impact on local school districts and charter schools due to the bill's provisions relating to in-service suicide prevention training requirements.

The bill takes effect July 1, 2020.

II. Present Situation:

Suicide is a major public health issue and a leading cause of death nationally,[1] with complex causes such as mental health and substance use disorders, painful losses, exposure to violence, and social isolation.[2] Suicide rates increased in nearly every state from 1999 through 2016.[3] In 2017, suicide was the second leading cause of death nationwide for persons aged 10–14, 15–19, and 20–24.[4] After stable trends from 2000 to 2007, suicide rates for persons aged 10–24 increased 56 percent from 2007 (6.8 per 100,000 persons) to 2017 (10.6 per 100,000 persons).[5]

While suicide is often characterized as a response to a single event or set of circumstances, suicide is the result of complex interactions among neurobiological, genetic, psychological, social, cultural, and environmental risk and protective factors.[6] The factors that contribute to any particular suicide are diverse; therefore, efforts related to suicide prevention must incorporate multiple approaches.[7]

In Florida, the rate of suicides increased by 10.6 percent from 1996 to 2016.[8] According to the 2017 Florida Morbidity Statistics Report, the total number of deaths due to suicide in Florida was 3,187 in 2017, a slight increase from 3,122 in 2016.[9] Suicide was the eighth leading cause of death in Florida, and the suicide rate per 100,000 population was 15.5.[10] This is a slight increase

[1] Heron M. *Deaths: Leading Causes for 2017*. National Vital Statistics Reports; Vol. 68 No 6. Hyattsville, MD: National Center for Health Statistics. 2019.
[2] Substance Abuse and Mental Health Service Administration, *Suicide Prevention*, available at: https://www.samhsa.gov/suicide-prevention (last visited November 7, 2019) and Centers for Dis
[3] Centers for Disease Control and Prevention, *Suicides Rising Across the U.S.* (June 7, 2018), available at: https://www.cdc.gov/vitalsigns/suicide/index.html (last visited November 6, 2019).
[4] *Supra* note 1.
[5] Heron M., Curtin, S., *Death Rates Due to Suicide and Homicide Among Persons Aged 10-24: United States, 2007-2017*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention National Center for Health Statistics, available at: https://www.cdc.gov/nchs/data/databriefs/db352-h.pdf (last visited November 6, 2019).
[6] *Supra* note 1.
[7] *Id*.
[8] *Supra* note 2.
[9] Florida Department of Health, *2017 Florida Morbidity Statistics Report*, 2017, available at: http://www.floridahealth.gov/diseases-and-conditions/disease-reporting-and-management/disease-reporting-and-surveillance/data-and-publications/_documents/2017-annual-morbidity-statistics-report.pdf (last visited November 8, 2019).
[10] *Id*.

from 2016 (15.4).[11] Suicide was the second leading cause of death for individuals within the 25-34 age group in 2017, similar to the national ranking of 2016, and the third leading cause of death for individuals within 15-24 age group. Suicide was the fourth leading cause of death for individuals within the 5-14, 35-44, and 45-54 age groups.[12]

Statewide Office for Suicide Prevention

The Statewide Office of Suicide Prevention (Statewide Office), which is housed within the Department of Children and Families (DCF),[13] must coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, health care providers, school employees, and others who may have contact with persons at risk of suicide. [14]

The Statewide Office is allowed to seek and accept grants or funds from federal, state, or local sources to support the operation and defray the authorized expenses of the Statewide Office and the Suicide Prevention Coordinating Council.[15]

Suicide Prevention Coordinating Council

The Suicide Prevention Coordinating Council (Council) is located within the DCF and develops strategies for preventing suicide and advises the Statewide Office regarding the development of a statewide plan for suicide prevention. A report on the plan is prepared and presented annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives.[16]

The Council is currently comprised of 27 voting members and 1 nonvoting member. Thirteen of the members are appointed by the director of the Statewide Office, four are appointed by the Governor, and ten are state agency directors or their designees.[17]

Suicide among First Responders

First responders include law enforcement personnel, firefighters, and emergency medical services workers. In comparison to the general population, first responders are at heightened risk for depression, post-traumatic stress disorder (PTSD), and suicide. Further, police and firefighters are more likely to commit suicide than to die in the line of duty.[18] Many first responders previously served in the military, which likely exposed them to trauma prior to

[11] *Id*.
[12] *Id*.
[13] Chapter 2011-51, Laws of Fla.; Section 14.2019, F.S.
[14] Section 14.2019, F.S.
[15] *Id*.
[16] Section 14.20195, F.S.
[17] *Id*.
[18] Miriam Heyman, Jeff Dill, and Robert Douglas, *The Ruderman White Paper on Mental Health and Suicide of First Responders* (April 2018), pg. 7-12; available at https://issuu.com/rudermanfoundation/docs/first_responder_white_paper_final_ac270d530f8bfb. PTSD rates amongst first responders, in contrast to the 6.8 percent reported for the general population, significantly increase to 14.6 percent to 22 percent for firefighters, and 35 percent for police officers.

becoming a first responder.[19] Suicide amongst first responders is considered to be grossly underreported. For example, in a study conducted by the Firefighter Behavioral Health Alliance (FBHA), researchers estimate that only about 40 percent of firefighter suicides are reported.[20]

The Law Enforcement Mental Health and Wellness Act of 2017

Signed into law January 2018, the Law Enforcement Mental Health and Wellness Act of 2017 calls for the U.S. Department of Justice to review and report to Congress on mental health practices and services in the U.S. Departments of Defense and Veterans Affairs that could be adopted by law enforcement agencies to support first responders.[21] The law additionally directs the Department of Justice to make recommendations on:

- Effectiveness of crisis lines for law enforcement officers;
- Efficacy of yearly mental health checks for law enforcement officers;
- Expanded peer mentoring programs; and
- Ensuring privacy for participants of these programs.[22]

The report, provided to Congress on March 2019, includes the following recommendations to enhance mental health and reduce suicide rates:

- Support the development of resources for community-based clinicians who interact with law enforcement and their families;
- Support placement of mental health professionals in law enforcement agencies;
- Encourage programs that permit retired law enforcement officers to access departmental peer support programs after separating employment;
- Support the development of model policies and implementation guidelines for agencies to make substantial efforts to reduce suicide;
- Support the creation of a Law Enforcement Suicide Event report surveillance system;
- Evaluate the efficacy of crisis lines;
- Support the expansion of peer support programs; and
- Bolster privacy protections for officers seeking support from peer crisis lines and other support programs.[23]

First-Episode Psychosis

The term "psychosis" is used to describe a condition that affects the mind and generally involves some loss of contact with reality. Psychosis can include hallucinations (seeing, hearing, smelling, tasting, or feeling something that is not real), paranoia, delusions (believing something that is not

[19] *Id*. at 9.
[20] *Id*.
[21] U.S. Department of Justice, *Community Oriented Policing Services (COPS), Law Enforcement Mental Health and Wellness Services (LEMHWA) Program Resources*; available at https://cops.usdoj.gov/lemhwaresources (last visited Feb. 5, 2020).
[22] Public Law 115-113 (115th Congress).
[23] Spence, Deborah L., Melissa Fox, Gilbert C. Moore, Sarah Estill, and Nazmia E.A. Comrie, Community Oriented Policing Services (COPS), U.S. Dept. of Justice, *Law Enforcement Mental Health and Wellness Act, Report to Congress* (March 2019); available at https://cops.usdoj.gov/RIC/Publications/cops-p370-pub.pdf

real even when presented with facts), or disordered thoughts and speech.[24] Psychosis may be caused by medications or alcohol or drug abuse but can also be a symptom of mental illness or a physical condition.[25]

Psychosis affects people from all walks of life. Approximately three out of 100 people will experience psychosis at some time in their lives, often beginning when a person is in their late teens to mid-twenties.[26] Researchers are still learning about how and why psychosis develops, but it is generally thought to be triggered by a combination of genetic predisposition and life stressors during critical stages of brain development.[27] Risk factors that may contribute to the development of psychosis include stressors such as physical illness, substance use, and psychological or physical trauma.[28]

Early psychosis, known as "first-episode psychosis," is the most important time to connect an individual with treatment.[29] Studies have shown that it is common for a person to experience psychotic symptoms for more than a year before ever receiving treatment.[30] Reducing the duration of untreated psychosis is critical to improving a person's chance of recovery. The most effective treatment for early psychosis is coordinated specialty care, which uses a team-based approach with shared decision-making that focuses on working with individuals to reach their recovery goals.[31]

Programs that provide coordinated specialty care are often called first-episode psychosis (FEP) programs. Studies show that young people who engage in FEP programs have greater improvement in their symptoms, stay in treatment longer, are more likely to stay in school or working, and are more connected socially than those who receive standard mental care.[32]

Veterans and Mental Health

Mental Health among Veterans

According to the National Center for Post-Traumatic Stress Disorder, between 11 and 20 percent of veterans who served in Operations Iraqi Freedom and Enduring Freedom have Post-Traumatic Stress Disorder (PTSD) in a given year.[33] Additionally, 12 percent of Gulf War Veterans and 15

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[24] National Institute of Mental Health, *Fact Sheet: First Episode Psychosis*, available at: https://www.nimh.nih.gov/health/topics/schizophrenia/raise/fact-sheet-first-episode-psychosis.shtml (last visited November 7, 2019).
[25] *Id*.
[26] *Id*.
[27] National Alliance on Mental Illness, *What is Early and First-Episode Psychosis?* (July 2016), available at: https://www.nami.org/NAMI/media/NAMI-Media/Images/FactSheets/What-is-Early-and-First-Episode-Psychosis.pdf (last visited November 7, 2019).
[28] *Id*.
[29] *Id*.
[30] *Supra* note 18.
[31] *Supra* note 21.
[32] *First Episode Psychosis Programs: A Guide to State Expansion*, National Alliance on Mental Illness, p. 4, (Feb. 2017), available at: https://www.nami.org/getattachment/Extranet/Advocacy/FEP-State-Advocacy-Toolkit/FEP-State-Advocacy-Guide.pdf (last visited November 7, 2019).
[33] National Center for PTSD, *How Common is PTSD? PTSD and the Military*, available at https://www.ptsd.va.gov/understand/common/common_veterans.asp (last visited November 6, 2019).

percent of Vietnam Veterans have PTSD, and up to 30 percent of Vietnam Veterans will have PTSD in their lifetime.[34] Statistics on depression in veterans vary, but it is estimated that between 2 and 10 percent of servicemembers return from active military operations with major depression.[35]

The 2019 National Veteran Suicide Prevention Annual Report published by the United States Department of Veterans Affairs (USDVA) details veteran deaths from suicide from 2005 to 2017.[36] During that time span, veteran suicides increased from 5,787 in 2005 to 6,139 in 2017.[37] The annual number of veteran suicide deaths has exceeded 6,000 every year since 2008,[38] and the annual number of veteran suicide deaths increased by 129 from 2016 to 2017.[39]

Federal Mental Health Parity Laws

Commercial Plans

Prior to 1996, health insurance coverage for mental illness was generally not as comprehensive as coverage for medical and surgical benefits. In response, the Mental Health Parity Act[40] (MHPA) was enacted in 1996, which requires parity of medical and surgical benefits with mental health benefits for annual and aggregate lifetime limits of large group plans.

In 2008, Congress passed the Mental Health Parity and Addiction Equity Act[41] (MHPAEA), which generally applies to large group health plans.[42] The MHPAEA expanded parity of coverage to include treatment of substance use disorders, financial requirements, treatment limitations, and in- and out-of-network coverage if a plan provided coverage for mental illness.[43] Like the MHPA, the MHPAEA does not require large group plans to provide benefits for mental health or substance use disorders. The MHPAEA contains a cost exemption, which allows a group health plan to receive a waiver, exempting them from some of the key requirements, if the plan demonstrates that costs increased at least 1 percent because of compliance.[44]

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[34] *Id*.
[35] RAND Center for Military Health Policy Research, *Invisible Wounds of War: Psychological and Cognitive Injuries, Their Consequences, and Services to Assist Recovery*, at 54 (Terri Tanielian and Lisa H. Jaycox, Eds.) (2008), available at http://www.rand.org/pubs/monographs/2008/RAND_MG720.pdf (last visited November 6, 2019).
[36] U.S. Department of Veterans Affairs, *2019 National Veteran Suicide Prevention Annual Report*, 2019, available at https://www.mentalhealth.va.gov/docs/data-sheets/2019/2019_National_Veteran_Suicide_Prevention_Annual_Report_508.pdf (last visited November 6, 2019).
[37] *Id*.
[38] *Id*.
[39] *Id*.
[40] Pub. L. No. 104-204.
[41] Pub. L. No. 110-343.
[42] See final regulations available at http://www.gpo.gov/fdsys/pkg/FR-2013-11-13/pdf/2013-27086.pdf (last viewed November 7, 2019).
[43] 45 CFR ss. 146 and 160.
[44] Plans and issuers that make changes to comply with MHPAEA and incur an increased cost of at least 2 percent in the first year that MHPAEA applies to the plan or coverage or at least 1 percent in any subsequent plan year may claim an exemption from MHPAEA based on their increased cost. If such a cost is incurred, the plan or coverage is exempt from MHPAEA requirements for the plan or policy year following the year the cost was incurred. The plan sponsors or issuers must notify the plan beneficiaries that MHPAEA does not apply to their coverage. These exemptions last 1 year. After that, the plan or

In 2010, the Patient Protection and Affordable Care Act[45] (PPACA) amended the MHPAEA to apply the provisions to individual health insurance coverage. The PPACA mandates that qualified health insurance must provide coverage of 10 essential health benefits,[46] including coverage for mental health and substance use disorders for individual and small group qualified health plans. The final rule, implementing these provisions, generally requires health insurers offering health insurance coverage in the individual and small group markets to comply with the requirements of the MHPAEA regulations in order to satisfy the essential health benefit requirement.[47]

The Office of Insurance Regulation

The Florida Office of Insurance Regulation (OIR) licenses and regulates insurers, health maintenance organizations (HMOs), and other risk-bearing entities.[48] The Agency for Health Care Administration (AHCA) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.[49] As part of the certification process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.[50]

The OIR reviews health insurance policies and contracts for compliance with MHPAEA. The OIR communicates any violations of MHPAEA to the insurer or HMO. If the insurer or HMO fails to correct the issue, the OIR would refer the issue to the appropriate federal regulator as a possible violation of federal law.

Coverage for Mental and Nervous Disorders

Section 627.668, F.S., requires insurers and HMOs offering group coverage to make available optional coverage for mental and nervous disorders for an appropriate additional premium that would include benefits delineated in this section.

Coverage for Substance Abuse

Section 627.669, F.S., requires insurers and HMOs offering group coverage to make available optional coverage for substance abuse that would include benefits listed in the section.

Continuing Education Requirements for Health Care Practitioners

Compliance with continuing education (CE) requirements is a condition of renewal of licensure for health care practitioners. Boards, or the Department of Health (DOH) when there is no board, require each licensee to demonstrate competency by completing CEs during each licensure cycle.

coverage is required to comply again; however, if the plan or coverage incurs an increased cost of at least 1 percent in that plan or policy year, the plan or coverage could claim the exemption for the following plan or policy year.

[45] Pub. L. No.111-148, as amended by Pub. L. No. 111-152.

[46] 45 CFR s. 156.115.

[47] *See* 45 CFR 147.150 and 156.115 (78 FR 12834, Feb. 25, 2013).

[48] Section 20.121(3)(a), F.S.

[49] Section 641.21(1), F.S.

[50] Section 641.495, F.S.

The number of required CE hours varies by profession. The requirements for CEs may be found in ch. 456, F.S., professional practice acts, administrative rules, or a combination of these references. Failure to comply with CE requirements may result in disciplinary action against the licensee, in accordance with the disciplinary guidelines established by the applicable board, or the DOH if there is no board.

The DOH or boards, when applicable, monitor heath care practitioner's compliance with the CE requirements in a manner required by statute. The statutes vary as to the required method to use. For example, the DOH or a board, when applicable, may have to randomly select a licensee to request the submission of CE documentation,[51] require a licensee to a submit sworn affidavit or statement attesting that he or she has completed the required CE hours,[52] or perform an audit. Licensees are responsible for maintaining documentation of the CE courses completed.

The Good Samaritan Act

The "Good Samaritan Act," codified in s. 768.13, F.S., provides immunity from civil liability for damages to any person who:

- Gratuitously and in good faith renders emergency care or treatment either in direct response to declared state emergencies or at the scene of an emergency situation, without objection of the injured victim, if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.[53]
- Participates in emergency response activities of a community emergency response team if that person acts prudently and within the scope of his or her training.[54]
- Gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.[55]

The Good Samaritan Act, however, does not specifically address immunity from liability for individuals who attempt to render aid to others at risk of dying or attempting to die by suicide. Several states have implemented such measures in their Good Samaritan statutes in order to shield those who make a good faith effort to render aid from civil liability.[56]

Suicide Prevention Certified Schools

Section 1012.583, F.S., requires the Department of Education (DOE), in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, to develop a list of approved youth suicide awareness and prevention training materials and suicide screening instruments that may be used for training in youth suicide awareness, suicide prevention and suicide screening for school instructional personnel. The approved list of materials:[57]

[51] See s. 457.107, F.S.
[52] See ss. 458.347(4)(e), 466.0135(6), 466.014, and 466.032(5), F.S.
[53] Section 768.13(2)(a), F.S.
[54] Section 768.13(2)(d), F.S.
[55] Section 768.13(3), F.S.
[56] Schiff, Damien, *Samaritans: Good, Bad and Ugly: A Comparative Law Analysis*, 11 Roger Williams Univ. L. Rev. 95 (2005).
[57] Section 1012.583(1), F.S.

- Must identify available standardized suicide screening instruments appropriate for use with a school-age population and which have validity and reliability and include information about obtaining instruction in the administration and use of such instruments.
- Must include training on how to identify appropriate mental health services and how to refer youth and their families to those services;
- May include materials currently being used by a school district if such materials meet any criteria established by the department; and
- May include programs that instructional personnel can complete through a self-review of approved youth suicide awareness and prevention materials.

A school is considered a "Suicide Prevention Certified School" if it:
- Has at least two school-based staff members certified or otherwise deemed competent in the use of a DOE-approved suicide screening instrument; and
- Chooses to incorporate 2 hours of the DOE-approved training materials and requires all of its instructional personnel to participate in the training.

Currently, neither public school instructional personnel nor charter school instructional personnel are required to participate in suicide prevention training, or be certified or deemed competent in the use of a suicide risk screening instrument. Additionally, neither public schools nor charter schools are required to use a suicide risk screening instrument to evaluate a student's suicide risk prior to initiating or requesting to initiate the Baker Act.

III. Effect of Proposed Changes:

Section 1 amends s. 14.2019, F.S., adding veterans and service members to the list of stakeholders that comprise the network of community-based programs intended to improve suicide prevention initiatives. The bill also requires the Statewide Office to coordinate education and training curricula in suicide prevention efforts for veterans and service members. The bill requires the Statewide Office to act as a clearinghouse for information and resources related to suicide prevention by disseminating evidence-based practices and by collecting and analyzing data on trends in suicide by various population demographics. The bill requires the Statewide Office to advise the Florida Department of Transportation (DOT) on the implementation of evidence-based suicide deterrents when designing new infrastructure projects.

The bill establishes the First Responders Suicide Deterrence Task Force within and supported by the Statewide Office for Suicide Prevention. The purpose of the task force is to make recommendations on how to reduce the incidence of suicide among current and retired first responders. The task force is made up of representatives of the Florida Professional Firefighters, the Florida Police Benevolent Association, the Florida Fraternal Order of Police, the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Fire Chiefs' Association.

The bill also requires the task force to identify or develop training programs and materials to better enable first responders to cope with life and work stress and foster an organizational culture that supports first responders. The bill identifies a supportive organizational culture as one that:
- Promotes mutual support and solidarity among first responders;

- Trains agency supervisors and managers to identify suicidal risk among first responders;
- Improves the use of existing resources by first responders; and
- Educates first responders on suicide awareness and resources for help.

The bill requires the task force to identify public and private resources to implement the training programs and materials. The task force must report its findings and recommendations to the Governor and Legislature each July 1, beginning in 2021. Consistent with s. 20.03, F.S., the task force expires after 3 years.

Section 2 amends s. 14.20195, F.S., directing the Suicide Prevention Coordinating Council (Council) to make findings and recommendations regarding suicide prevention specifically related to the implementation of evidence-based mental health awareness and assistance training programs and gatekeeper training throughout the state. The bill requires the Council to work with the DCF to advise the public on the locations and availability of local behavioral health providers.

The bill also adds five new voting members to the Council and requires that 18, rather than 13, members be appointed by the director of the Statewide Office. The bill amends the list of organizations appointed by the Statewide Office to include:

- The Florida Behavioral Health Association (the bill eliminates the individual memberships of the Florida Alcohol and Drug Abuse Association and the Florida Council for Community Mental Health because these organizations have merged to form the Florida Behavioral Health Association);
- The Florida Medical Association;
- The Florida Osteopathic Medical Association;
- The Florida Psychiatric Society;
- The Florida Psychological Association;
- Veterans Florida; and
- The Florida Association of Managing Entities.

Section 3 amends s. 334.044, F.S., requiring the DOT to work with the Statewide Office in developing a plan to consider evidence-based suicide deterrents on all newly planned infrastructure projects throughout the state.

Section 4 amends s. 394.455, F.S., defining first episode psychosis (FEP) programs as evidence-based programs that use intensive case management, individual or group therapy, supported employment, family education and supports, and appropriate psychotropic medication to treat individuals 14 to 30 years of age who are experiencing early indications of serious mental illness, especially first-episode psychosis.

Section 5 amends s. 394.4573, F.S., establishing FEP programs as an essential element of a coordinated system of care and requires the DCF to conduct an assessment of the availability of and access to FEP programs in the state, including any gaps in availability or access that may exist. This assessment must be included in the DCF's annual report to the Governor and Legislature on the assessment of behavioral health services in the state. The bill also adds FEP programs to the elements of a coordinated system of care.

Section 6 amends s. 394.463, F.S., requiring facilities who hold and release Baker Act patients who are minors to provide information regarding the availability of mobile response teams, suicide prevention resources, social supports, and local self-help groups to the patient's guardian upon release.

Section 7 creates s. 456.0342, F.S., adding suicide prevention to the continuing education (CE) requirements for allopathic physicians, osteopath physicians, and nurses, effective January 1, 2022. Such licensees must complete two hours of CE courses on suicide risk assessment, treatment, and management. The bill requires the respective licensing board for each of the three professions to include the hours required for completion in the total hours of continuing education required by law.

Section 8 amends s. 627.6675, F.S., requiring health insurers to offer benefits specified in the newly created s. 627.4193, F.S., rather than the benefits specified in s. 627.668 (optional coverage for mental and nervous disorders) and s. 627.669 (optional coverage for substance use impaired persons). The effective date of this section is January 1, 2021.

Section 9 transfers and amends s. 627.668, F.S., and renumbers it as s. 627.4193, F.S., requiring insurers that issue, deliver, or provide comprehensive major medical individual or group coverage to comply with the Mental Health Parity and Addiction Equity Act (MHPAEA) and provide the benefits or level of benefits needed for the medically necessary care and treatment of mental and nervous disorders, including substance use disorders. The bill also requires both individual and group policies to be provided in a manner no more restrictive than medical and surgical benefits, while nonquantitative treatment limitations cannot be applied more stringently than applicable restrictions in federal law.

The bill requires insurers to submit annual affidavits attesting to compliance with the MHPAEA, and requires the OIR to implement and enforce applicable provisions of the MHPAEA and federal guidance/regulations relating to the MHPAEA. The bill provides rulemaking authority to the Financial Services Commission for implementation. The effective date of this section is January 1, 2021.

Section 10 repeals s. 627.669, F.S., relating to optional insurance coverage requirements for substance abuse impaired persons. The effective date of this section is January 1, 2021.

Section 11 amends s. 627.6699, F.S., making health benefit plans that provide coverage to employees of a small employer subject to the newly created s. 627.4193, F.S., to ensure compliance with the MHPAEA. The effective date of this section is January 1, 2021.

Section 12 amends s. 641.26, F.S., requiring HMOs that issue or deliver comprehensive major medical coverage to submit annual affidavits to the OIR attesting to compliance with the newly created s. 627.4193, F.S., to ensure compliance with the MHPAEA, and provides rulemaking authority for OIR to implement the requirement. The effective date of this section is January 1, 2021.

Section 13 amends s. 641.31, F.S., requiring all health maintenance contracts that provide comprehensive medical coverage to comply with the provisions of the newly created s. 627.4193, F.S., and provides rulemaking authority for the OIR to implement the requirement. The effective date of this section is January 1, 2021.

Section 14 creates s. 786.1516, F.S., defining 'emergency care' to mean assistance or advice offered to avoid or attempt to mitigate a suicide emergency. The bill defines a 'suicide emergency' as an occurrence that reasonably indicates one is at risk of dying of or attempting suicide. The bill provides civil immunity for persons who provide emergency care at or near the scene of a suicide emergency.

Section 15 amends s. 1002.33, F.S., requiring all charter schools to incorporate 2 hours of suicide prevention training for all instructional personnel by October 1, 2020. The bill also requires all charter schools to have at least 2 school-based staff members certified or otherwise competent in the use of an approved suicide screening instrument and have a policy in place to utilize the instrument to gauge a student's suicide risk before initiating a Baker Act or requesting the initiation of a Baker Act. The bill requires each charter school to report their compliance with these provisions to the DOE.

Section 16 amends s. 1012.583, F.S., putting in place the same requirements for public schools as those detailed in Section 15 for charter schools. The bill also eliminates the 'Suicide Prevention Certified School' designation in statute.

Section 17 amends s. 394.495, F.S., to correct cross-references related to child and adolescent mental health systems of care.

Section 18 amends s. 394.496, F.S., to correct cross-references related to service planning.

Section 19 amends s. 394.9085, F.S., to correct a cross-reference related to behavioral provider liability.

Section 20 amends s. 409.972, F.S., to correct a cross-reference related to mandatory and voluntary enrollment in Medicaid.

Section 21 amends s. 464.012, F.S., to correct a cross-reference related to licensure of advanced registered nurse practitioners, fees, and controlled substance prescribing.

Section 22 amends s. 744.2007, F.S., to correct a cross-reference related to powers and duties of public guardians.

Section 23 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform a review of suicide prevention programs in other states and make recommendations on their applicability to Florida. The bill also requires the OPPAGA to submit a report containing the findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by January 1, 2021.

Section 24 provides an effective date for the bill of July 1, 2020.

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:

PCS/SB 7012 would require large employer group health policies and HMO contracts to provide coverage for mental health and substance use disorders as that coverage would no longer be at the option of the employer. Additionally, certain health care practitioners may be impacted by the bill's continuing education requirement.

Charter schools may be impacted by having to train and/or hire new personnel to meet the suicide prevention training and staffing requirements under the bill. These impacts are indeterminate.

C. Government Sector Impact:

According to the DCF, two additional full-time equivalent (FTE) staff positions are needed for the Statewide Office of Suicide Prevention for $155,386 in recurring costs and $8,896 in nonrecurring costs. In addition, there will be additional recurring contract costs of $262,650 to maintain the Network of Care website that provides information on locations and availability of local health care providers.

The bill has an indeterminate fiscal impact on the Department of Transportation to develop a plan relating to evidence-based suicide deterrents in certain locations.

The bill has an indeterminate fiscal impact on public schools and charter schools due to the bill's provisions relating to in-service suicide prevention training requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.2019, 14.20195, 334.044, 394.455, 394.4573, 394.463, 394.495, 394.496, 394.9085, 409.972, 464.012, 627.6675, 627.6699, 641.26, 641.31, 744.2007, 1002.33, and 1012.583.

This bill creates the following sections of the Florida Statutes: 456.0342, 627.4193, and 786.1516.

This bill repeals the following sections of the Florida Statutes: 627.668 and 627.669.

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 Health and Human Services on February 13, 2020:
The committee substitute:

- Creates the First Responders Suicide Deterrence Task Force within the Statewide Office of Suicide Prevention for the purpose of providing recommendations on reducing suicide rates amongst active and retired first responders.
- Requires the task force to identify or develop training programs, materials, and resources to better enable first responders to cope with life and work stress and foster a supportive organizational culture.
- Provides for the membership of the task force.
- Requires the task force to report findings and recommendations on preventing suicide to the Governor and Legislature each July 1, from 2021 through 2023.
- Provides for the expiration of the task force in 3 years.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 267 - 721

and insert:

Section 4. Present subsections (10) through (48) of section 394.455, Florida Statutes, are redesignated as subsections (11) through (49), respectively, a new subsection (10) is added to that section, and present subsection (28) of that section is amended, to read:

394.455 Definitions.—As used in this part, the term:

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(10) "Coordinated specialty care program" means an evidence-based program for individuals who are experiencing the early indications of serious mental illness, especially symptoms of a first psychotic episode, and which includes, but is not limited to, intensive case management, individual or group therapy, supported employment, family education and supports, and the provision of appropriate psychotropic medication as needed.

(29) ~~(28)~~ "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, intoxication, or conditions manifested only by dementia, traumatic brain injury, antisocial behavior, or substance abuse.

Section 5. Section 394.4573, Florida Statutes, is amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports.—On or before December 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The assessment shall consider, at a minimum, the extent to which designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability

of less-restrictive services, and the use of evidence-informed practices. The assessment must also consider the availability of and access to coordinated specialty care programs and identify any gaps in the availability of and access to such programs in the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). Beginning in 2017, the department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(1) As used in this section:

(a) "Care coordination" means the implementation of deliberate and planned organizational relationships and service procedures that improve the effectiveness and efficiency of the behavioral health system by engaging in purposeful interactions with individuals who are not yet effectively connected with services to ensure service linkage. Examples of care coordination activities include development of referral agreements, shared protocols, and information exchange procedures. The purpose of care coordination is to enhance the delivery of treatment services and recovery supports and to improve outcomes among priority populations.

(b) "Case management" means those direct services provided to a client in order to assess his or her needs, plan or arrange services, coordinate service providers, link the service system to a client, monitor service delivery, and evaluate patient outcomes to ensure the client is receiving the appropriate services.

(c) "Coordinated system of care" means the full array of


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behavioral and related services in a region or community offered by all service providers, whether participating under contract with the managing entity or by another method of community partnership or mutual agreement.

(d) "No-wrong-door model" means a model for the delivery of acute care services to persons who have mental health or substance use disorders, or both, which optimizes access to care, regardless of the entry point to the behavioral health care system.

(2) The essential elements of a coordinated system of care include:

(a) Community interventions, such as prevention, primary care for behavioral health needs, therapeutic and supportive services, crisis response services, and diversion programs.

(b) A designated receiving system that consists of one or more facilities serving a defined geographic area and responsible for assessment and evaluation, both voluntary and involuntary, and treatment or triage of patients who have a mental health or substance use disorder, or co-occurring disorders.

1. A county or several counties shall plan the designated receiving system using a process that includes the managing entity and is open to participation by individuals with behavioral health needs and their families, service providers, law enforcement agencies, and other parties. The county or counties, in collaboration with the managing entity, shall document the designated receiving system through written memoranda of agreement or other binding arrangements. The county or counties and the managing entity shall complete the plan and

implement the designated receiving system by July 1, 2017, and the county or counties and the managing entity shall review and update, as necessary, the designated receiving system at least once every 3 years.

2. To the extent permitted by available resources, the designated receiving system shall function as a no-wrong-door model. The designated receiving system may be organized in any manner which functions as a no-wrong-door model that responds to individual needs and integrates services among various providers. Such models include, but are not limited to:

a. A central receiving system that consists of a designated central receiving facility that serves as a single entry point for persons with mental health or substance use disorders, or co-occurring disorders. The central receiving facility shall be capable of assessment, evaluation, and triage or treatment or stabilization of persons with mental health or substance use disorders, or co-occurring disorders.

b. A coordinated receiving system that consists of multiple entry points that are linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. Each entry point shall be a designated receiving facility and shall, within existing resources, provide or arrange for necessary services following an initial assessment and evaluation.

c. A tiered receiving system that consists of multiple entry points, some of which offer only specialized or limited services. Each service provider shall be classified according to its capabilities as either a designated receiving facility or another type of service provider, such as a triage center, a


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licensed detoxification facility, or an access center. All participating service providers shall, within existing resources, be linked by methods to share data, formal referral agreements, and cooperative arrangements for care coordination and case management.

An accurate inventory of the participating service providers which specifies the capabilities and limitations of each provider and its ability to accept patients under the designated receiving system agreements and the transportation plan developed pursuant to this section shall be maintained and made available at all times to all first responders in the service area.

(c) Transportation in accordance with a plan developed under s. 394.462.

(d) Crisis services, including mobile response teams, crisis stabilization units, addiction receiving facilities, and detoxification facilities.

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a department-approved credentialing entity as defined in s. 397.311(10) by July 1, 2017, and, thereafter, within 6 months after hire.

(f) Care coordination that involves coordination with other local systems and entities, public and private, which are involved with the individual, such as primary care, child welfare, behavioral health care, and criminal and juvenile justice organizations.


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(g) Outpatient services.

(h) Residential services.

(i) Hospital inpatient care.

(j) Aftercare and other postdischarge services.

(k) Medication-assisted treatment and medication management.

(l) Recovery support, including, but not limited to, support for competitive employment, educational attainment, independent living skills development, family support and education, wellness management and self-care, and assistance in obtaining housing that meets the individual's needs. Such housing may include mental health residential treatment facilities, limited mental health assisted living facilities, adult family care homes, and supportive housing. Housing provided using state funds must provide a safe and decent environment free from abuse and neglect.

(m) Care plans shall assign specific responsibility for initial and ongoing evaluation of the supervision and support needs of the individual and the identification of housing that meets such needs. For purposes of this paragraph, the term "supervision" means oversight of and assistance with compliance with the clinical aspects of an individual's care plan.

(n) Coordinated specialty care programs.

(3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific appropriation by the Legislature, the department may award system improvement grants to managing entities based on a detailed plan to enhance services in accordance with the no-wrong-door model as defined in subsection (1) and to address specific needs identified in the assessment prepared by the

department pursuant to this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements.

Section 6. Subsection (3) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(3) NOTICE OF RELEASE.—Notice of the release shall be given to the patient's guardian or representative, to any person who executed a certificate admitting the patient to the receiving facility, and to any court which ordered the patient's evaluation. If the patient is a minor, information regarding the availability of a local mobile response service, suicide prevention resources, social supports, and local self-help groups must also be provided to the patient's guardian or representative along with the notice of the release.

Section 7. Paragraph (b) of subsection (1) of section 394.658, Florida Statutes, is amended to read:

394.658 Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program requirements.—

(1) The Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee, in collaboration with the Department of Children and Families, the Department of Corrections, the Department of Juvenile Justice, the Department of Elderly Affairs, and the Office of the State Courts Administrator, shall establish criteria to be used to review submitted applications and to select the county that will be awarded a 1-year planning grant or a 3-year implementation or expansion grant. A planning, implementation, or expansion grant

may not be awarded unless the application of the county meets the established criteria.

(b) The application criteria for a 3-year implementation or expansion grant shall require information from a county that demonstrates its completion of a well-established collaboration plan that includes public-private partnership models and the application of evidence-based practices. The implementation or expansion grants may support programs and diversion initiatives that include, but need not be limited to:

1. Mental health courts;

2. Diversion programs;

3. Alternative prosecution and sentencing programs;

4. Crisis intervention teams;

5. Treatment accountability services;

6. Specialized training for criminal justice, juvenile justice, and treatment services professionals;

7. Service delivery of collateral services such as housing, transitional housing, and supported employment; ~~and~~

8. Reentry services to create or expand mental health and substance abuse services and supports for affected persons; and

9. Coordinated specialty care programs.

Section 8. Present subsections (3) through (24) of section 394.67, Florida Statutes, are redesignated as subsections (4) through (25), respectively, a new subsection (3) is added to that section, and present subsection (3) is amended, to read:

394.67 Definitions.—As used in this part, the term:

(3) "Coordinated specialty care program" means an evidence-based program for individuals who are experiencing the early indications of serious mental illness, especially symptoms of a

first psychotic episode, and which includes, but is not limited to, intensive case management, individual or group therapy, supported employment, family education and supports, and the provision of appropriate psychotropic medication as needed.

(4)~~(3)~~ "Crisis services" means short-term evaluation, stabilization, and brief intervention services provided to a person who is experiencing an acute mental or emotional crisis, as defined in subsection (18) ~~(17)~~, or an acute substance abuse crisis, as defined in subsection (19) ~~(18)~~, to prevent further deterioration of the person's mental health. Crisis services are provided in settings such as a crisis stabilization unit, an inpatient unit, a short-term residential treatment program, a detoxification facility, or an addictions receiving facility; at the site of the crisis by a mobile crisis response team; or at a hospital on an outpatient basis.

Section 9. Paragraph (a) of subsection (26) of section 397.311, Florida Statutes, is amended to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(26) Licensed service components include a comprehensive continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services, including the following services:

(a) "Clinical treatment" means a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle. As defined by rule, "clinical treatment services" include, but are not limited to, the following licensable service components:

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1. "Addictions receiving facility" is a secure, acute care facility that provides, at a minimum, detoxification and stabilization services; is operated 24 hours per day, 7 days per week; and is designated by the department to serve individuals found to be substance use impaired as described in s. 397.675 who meet the placement criteria for this component.

2. "Day or night treatment" is a service provided in a nonresidential environment, with a structured schedule of treatment and rehabilitative services.

3. "Day or night treatment with community housing" means a program intended for individuals who can benefit from living independently in peer community housing while participating in treatment services for a minimum of 5 hours a day for a minimum of 25 hours per week.

4. "Detoxification" is a service involving subacute care that is provided on an inpatient or an outpatient basis to assist individuals to withdraw from the physiological and psychological effects of substance abuse and who meet the placement criteria for this component.

5. "Intensive inpatient treatment" includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24 hours per day, 7 days per week, in a highly structured, live-in environment.

6. "Intensive outpatient treatment" is a service that provides individual or group counseling in a more structured environment, is of higher intensity and duration than outpatient treatment, and is provided to individuals who meet the placement criteria for this component.

7. "Medication-assisted treatment for opioid use disorders ~~opiate addiction~~" is a service that uses methadone or other medication as authorized by state and federal law, in combination with medical, rehabilitative, supportive, and counseling services in the treatment of individuals who are dependent on opioid drugs.

8. "Outpatient treatment" is a service that provides individual, group, or family counseling by appointment during scheduled operating hours for individuals who meet the placement criteria for this component.

9. "Residential treatment" is a service provided in a structured live-in environment within a nonhospital setting on a 24-hours-per-day, 7-days-per-week basis, and is intended for individuals who meet the placement criteria for this component.

Section 10. Subsection (16) of section 397.321, Florida Statutes, is amended to read:

397.321 Duties of the department.—The department shall:

~~(16) Develop a certification process by rule for community substance abuse prevention coalitions.~~

Section 11. Section 397.4012, Florida Statutes, is amended to read:

397.4012 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(1) A hospital or hospital-based component licensed under chapter 395.

(2) A nursing home facility as defined in s. 400.021.

(3) A substance abuse education program established pursuant to s. 1003.42.

(4) A facility or institution operated by the Federal

Government.

(5) A physician or physician assistant licensed under chapter 458 or chapter 459.

(6) A psychologist licensed under chapter 490.

(7) A social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

(8) A legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensed service components itemized under s. 397.311(26) is not exempt from substance abuse licensure but retains its exemption with respect to all services which are solely religious, spiritual, or ecclesiastical in nature.

(9) Facilities licensed under chapter 393 which, in addition to providing services to persons with developmental disabilities, also provide services to persons developmentally at risk as a consequence of exposure to alcohol or other legal or illegal drugs while in utero.

(10) DUI education and screening services provided pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons or entities providing treatment services must be licensed under this chapter unless exempted from licensing as provided in this section.

(11) A facility licensed under s. 394.875 as a crisis stabilization unit.

The exemptions from licensure in subsections (3), (4), (8), (9),

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and (10) ~~this section~~ do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated under ~~pursuant to~~ s. 397.4014. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced practice registered nurse licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced practice registered nurse does not represent to the public that he or she is a licensed service provider and does not provide services to individuals under ~~pursuant to~~ part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 12. Section 456.0342, Florida Statutes, is created to read:

456.0342 Required instruction on suicide prevention.—The requirements of this section apply to each person licensed or certified under chapter 458, chapter 459, or part I of chapter 464.

(1) By January 1, 2022, each licensed or certified practitioner shall complete a board-approved 2-hour continuing education course on suicide prevention. The course must address suicide risk assessment, treatment, and management.

(2) Each licensing board that requires a licensee or


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certificateholder to complete a course pursuant to this section must include the hours required for completion in the total hours of continuing education required by law for such profession.

Section 13. Section 786.1516, Florida Statutes, is created to read:

786.1516 Immunity for providing assistance in a suicide emergency.—

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

(a) "Emergency care" means assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of a suicide emergency.

(b) "Suicide emergency" means an occurrence that reasonably indicates an individual is at risk of dying or attempting to die by suicide.

(2) A person who provides emergency care at or near the scene of a suicide emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person providing the emergency care unless the person is grossly negligent or caused the suicide emergency.

Section 14. Subsection (14) of section 916.106, Florida Statutes, is amended to read:

916.106 Definitions.—For the purposes of this chapter, the term:

(14) "Mental illness" means an impairment of the emotional processes that exercise conscious control of one's actions, or of the ability to perceive or understand reality, which impairment substantially interferes with the defendant's ability

to meet the ordinary demands of living. For the purposes of this chapter, the term does not apply to defendants who have only an intellectual disability or autism or a defendant with traumatic brain injury or dementia who lacks a co-occurring mental illness, and does not include intoxication or conditions manifested only by antisocial behavior or substance abuse impairment.

Section 15. Subsection (2) of section 916.13, Florida Statutes, is amended to read:

916.13 Involuntary commitment of defendant adjudicated incompetent.—

(2) A defendant who has been charged with a felony, ~~and who~~ has been adjudicated incompetent to proceed due to mental illness, and ~~who~~ meets the criteria for involuntary commitment under this chapter~~,~~ may be committed to the department, and the department shall retain and treat the defendant. Within 2 business days after receipt of a commitment order and other required documents as stipulated in rule, the department must request from the jail any and all medical information pertaining to the defendant. Within 3 business days after receipt of such a request, the jail shall provide such information to the department.

(a) Within 6 months after the date of admission and at the end of any period of extended commitment, or at any time the administrator or his or her designee determines that the defendant has regained competency to proceed or no longer meets the criteria for continued commitment, the administrator or designee shall file a report with the court pursuant to the applicable Florida Rules of Criminal Procedure.

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(b) A competency hearing must ~~shall~~ be held within 30 days after the court receives notification that the defendant is competent to proceed or no longer meets the criteria for continued commitment. The defendant must be transported to the committing court's jurisdiction for the hearing. If the defendant is receiving psychotropic medication at a mental health facility at the time he or she is discharged and transferred to the jail, the administering of such medication must continue unless the jail physician documents the need to change or discontinue it. The jail and department physicians shall collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings; however, the final authority regarding the administering of medication to an inmate in jail rests with the jail physician.

Section 16. Subsections (3) and (5) of section 916.15, Florida Statutes, are amended to read:

916.15 Involuntary commitment of defendant adjudicated not guilty by reason of insanity.—

(3) Every defendant acquitted of criminal charges by reason of insanity and found to meet the criteria for involuntary commitment may be committed and treated in accordance with ~~the provisions of~~ this section and the applicable Florida Rules of Criminal Procedure. The department shall admit a defendant so adjudicated to an appropriate facility or program for treatment and shall retain and treat such defendant. No later than 6 months after the date of admission, prior to the end of any period of extended commitment, or at any time that the administrator or his or her designee determines ~~shall have~~

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~~determined~~ that the defendant no longer meets the criteria for continued commitment placement, the administrator or designee shall file a report with the court pursuant to the applicable Florida Rules of Criminal Procedure. Within 2 business days after receipt of a commitment order and other required documents as stipulated in rule, the department must request from the jail any and all medical information pertaining to the defendant. Within 3 business days after receipt of such a request, the jail shall provide such information to the department.

(5) The commitment hearing shall be held within 30 days after the court receives notification that the defendant no longer meets the criteria for continued commitment. The defendant must be transported to the committing court's jurisdiction for the hearing. If the defendant is receiving psychotropic medication at a mental health facility at the time he or she is discharged and transferred to the jail, the administering of such medication must continue unless the jail physician documents the need to change or discontinue it. The jail and department physicians shall collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings; however, the final authority regarding the administering of medication to an inmate in jail rests with the jail physician.

Section 17. Present subsection (28) of section 1002.33, Florida Statutes, is redesignated as subsection (29), and a new subsection (28) is added to that section, to read:

1002.33 Charter schools.—

(28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH


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SUICIDE AWARENESS AND PREVENTION.—

(a) By October 1, 2020, every charter school must:

1. Incorporate 2 hours of training offered pursuant to s. 1012.583. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. Every charter school must require all instructional personnel to participate.

2. Have at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under s. 1012.583(1) and have a policy to use such suicide risk screening instrument to evaluate a student's suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student's suicide risk.

(b) Every charter school must report its compliance with this subsection to the department.

Section 18. Subsections (2) and (3) of section 1012.583, Florida Statutes, are amended to read:

1012.583 Continuing education and inservice training for youth suicide awareness and prevention.—

(2) By October 1, 2020, every public school must ~~A school shall be considered a "Suicide Prevention Certified School" if it~~:

(a) Incorporate ~~Incorporates~~ 2 hours of training offered pursuant to this section. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. Every public school ~~A~~

~~school that chooses to participate in the training~~ must require all instructional personnel to participate.

(b) Have ~~Has~~ at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under subsection (1) and have ~~has~~ a policy to use such suicide risk screening instrument to evaluate a student's suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student's suicide risk.

(3) Every public school ~~A school that meets the criteria in subsection (2)~~ must report its compliance with this section to the department. ~~The department shall keep an updated record of all Suicide Prevention Certified Schools and shall post the list of these schools on the department's website. Each school shall also post on its own website whether it is a Suicide Prevention Certified School, and each school district shall post on its district website a list of the Suicide Prevention Certified Schools in that district.~~

Section 19. Paragraph (a) of subsection (3) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(3)(a)1. Except as otherwise provided in subparagraph (b)1. or paragraph (e), before the department provides psychotropic medications to a child in its custody, the prescribing physician or a psychiatric nurse, as defined in s. 394.455, shall attempt to obtain express and informed consent, as defined in s. 394.455(16) ~~s. 394.455(15)~~ and as described in s. 394.459(3)(a),


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from the child's parent or legal guardian. The department must take steps necessary to facilitate the inclusion of the parent in the child's consultation with the physician or psychiatric nurse, as defined in s. 394.455. However, if the parental rights of the parent have been terminated, the parent's location or identity is unknown or cannot reasonably be ascertained, or the parent declines to give express and informed consent, the department may, after consultation with the prescribing physician or psychiatric nurse, as defined in s. 394.455, seek court authorization to provide the psychotropic medications to the child. Unless parental rights have been terminated and if it is possible to do so, the department shall continue to involve the parent in the decisionmaking process regarding the provision of psychotropic medications. If, at any time, a parent whose parental rights have not been terminated provides express and informed consent to the provision of a psychotropic medication, the requirements of this section that the department seek court authorization do not apply to that medication until such time as the parent no longer consents.

2. Any time the department seeks a medical evaluation to determine the need to initiate or continue a psychotropic medication for a child, the department must provide to the evaluating physician or psychiatric nurse, as defined in s. 394.455, all pertinent medical information known to the department concerning that child.

Section 20. Subsection (3) of section 394.495, Florida Statutes, are amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

(b) A professional licensed under chapter 491; or

(c) A person who is under the direct supervision of a qualified professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under chapter 491.

Section 21. Subsection (5) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

(5) A professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under chapter 491 must be included among those persons developing the services plan.

Section 22. Paragraph (a) of subsection (1) of section 394.674, Florida Statutes, is amended to read:

394.674 Eligibility for publicly funded substance abuse and mental health services; fee collection requirements.—

(1) To be eligible to receive substance abuse and mental health services funded by the department, an individual must be a member of at least one of the department's priority populations approved by the Legislature. The priority populations include:

(a) For adult mental health services:

1. Adults who have severe and persistent mental illness, as designated by the department using criteria that include severity of diagnosis, duration of the mental illness, ability to independently perform activities of daily living, and receipt

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of disability income for a psychiatric condition. Included within this group are:

a. Older adults in crisis.

b. Older adults who are at risk of being placed in a more restrictive environment because of their mental illness.

c. Persons deemed incompetent to proceed or not guilty by reason of insanity under chapter 916.

d. Other persons involved in the criminal justice system.

e. Persons diagnosed as having co-occurring mental illness and substance abuse disorders.

2. Persons who are experiencing an acute mental or emotional crisis as defined in s. 394.67(18) ~~s. 394.67(17)~~.

Section 23. Subsection (3) of section 394.74, Florida Statutes, is amended to read:

394.74 Contracts for provision of local substance abuse and mental health programs.—

(3) Contracts shall include, but are not limited to:

(a) A provision that, within the limits of available resources, substance abuse and mental health crisis services, as defined in s. 394.67(4) ~~s. 394.67(3)~~, shall be available to any individual residing or employed within the service area, regardless of ability to pay for such services, current or past health condition, or any other factor;

(b) A provision that such services be available with priority of attention being given to individuals who exhibit symptoms of chronic or acute substance abuse or mental illness and who are unable to pay the cost of receiving such services;

(c) A provision that every reasonable effort to collect appropriate reimbursement for the cost of providing substance

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abuse and mental health services to persons able to pay for services, including first-party payments and third-party payments, shall be made by facilities providing services pursuant to this act;

(d) A program description and line-item operating budget by program service component for substance abuse and mental health services, provided the entire proposed operating budget for the service provider will be displayed;

(e) A provision that client demographic, service, and outcome information required for the department's Mental Health and Substance Abuse Data System be submitted to the department by a date specified in the contract. The department may not pay the provider unless the required information has been submitted by the specified date; and

(f) A requirement that the contractor must conform to department rules and the priorities established thereunder.

Section 24. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(26)(a)3. ~~ss. 397.311(26)(a)4.~~, 397.311(26)(a)1., and 394.455(40) ~~394.455(39)~~,

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

And the title is amended as follows:

Delete lines 2 - 75

and insert:

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An act relating to mental health and substance abuse; amending s. 14.2019, F.S.; providing additional duties for the Statewide Office for Suicide Prevention; establishing the First Responders Suicide Deterrence Task Force adjunct to the office; specifying the task force's purpose; providing for the composition and the duties of the task force; requiring the task force to submit reports to the Governor and the Legislature on an annual basis; providing for future repeal; amending s. 14.20195, F.S.; providing additional duties for the Suicide Prevention Coordinating Council; revising the composition of the council; amending s. 334.044, F.S.; requiring the Department of Transportation to work with the office in developing a plan relating to evidence-based suicide deterrents in certain locations; amending s. 394.455, F.S.; defining the term "coordinated specialty care program"; revising the definition of the term "mental illness"; amending s. 394.4573, F.S.; revising the requirements for the annual state behavioral health services assessment; revising the essential elements of a coordinated system of care; amending s. 394.463, F.S.; requiring that certain information be provided to the guardian or representative of a minor patient released from involuntary examination; amending s. 394.658, F.S.; revising the application criteria for the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program to include support for coordinated specialty care programs; amending s.


661030

394.67, F.S.; defining the term "coordinated specialty care program"; amending s. 397.311, F.S.; redefining the term "medication-assisted treatment opiate addiction" as "medication-assisted treatment for opioid use disorders"; amending s. 397.321, F.S.; deleting a provision requiring the Department of Children and Families to develop a certification process by rule for community substance abuse prevention coalitions; amending s. 397.4012, F.S.; revising applicability for certain licensure exemptions; creating s. 456.0342, F.S.; providing applicability; requiring specified persons to complete certain suicide prevention education courses by a specified date; requiring certain boards to include the hours for such courses in the total hours of continuing education required for the profession; creating s. 786.1516, F.S.; defining the terms "emergency care" and "suicide emergency"; providing that persons providing certain emergency care are not liable for civil damages or penalties under certain circumstances; amending s. 916.106, F.S.; revising the definition of the term "mental illness"; amending ss. 916.13 and 916.15, F.S.; requiring the department to request a defendant's medical information from a jail within a certain timeframe after receiving a commitment order and other required documentation; requiring the jail to provide such information within a certain timeframe; requiring the continued administration of psychotropic medication to a


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defendant if he or she is receiving such medication at a mental health facility at the time that he or she is discharged and transferred to the jail; providing an exception; requiring the jail and department physicians to collaborate on a defendant's medication changes for certain purposes; specifying that the jail physician has the final authority regarding the administering of medication to an inmate; amending ss. 1002.33 and 1012.583, F.S.; requiring charter schools and public schools, respectively, to incorporate certain training on suicide prevention in continuing education and inservice training requirements; providing that such schools must require all instructional personnel to participate in the training; requiring such schools to have a specified minimum number of staff members who are certified or deemed competent in the use of suicide screening instruments; requiring such schools to have a policy for such instruments; requiring such schools to report certain compliance to the Department of Education; conforming provisions to changes made by the act; amending ss. 39.407, 394.495, 394.496, 394.674, 394.74, 394.9085,

314786

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/27/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Between lines 452 and 453
insert:

Section 7. Present subsection (5) of section 397.401, Florida Statutes, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

397.401 License required; penalty; injunction; rules waivers.—

(5) A service provider that has continually maintained an

314786

active Residential Level 5 license since January 1, 2012, and that houses patients within 500 feet of a licensed facility treating patients in compliance with this chapter, may maintain such license.

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

And the title is amended as follows:

Delete line 25

and insert:

involuntary examination; amending s. 397.401, F.S.; authorizing certain service providers to maintain a Residential Level 5 license; creating s. 456.0342, F.S.;

401064

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Between lines 757 and 758
insert:

Section 24. For the 2020-2021 fiscal year, the sums of $418,036 in recurring funds and $8,896 in nonrecurring funds are appropriated from the General Revenue Fund to the Department of Children and Families, and two full-time equivalent positions with associated salary rate of 90,384 are authorized, for the purpose of implementing the requirements of this act.

401064

11

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

13 And the title is amended as follows:

14 Delete line 83

15 and insert:

16 specified date; providing an appropriation;

17 authorizing positions; providing effective dates.

195908

576-03600-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to mental health; amending s. 14.2019, F.S.; providing additional duties for the Statewide Office for Suicide Prevention; establishing the First Responders Suicide Deterrence Task Force adjunct to the office; specifying the task force's purpose; providing for the composition and the duties of the task force; requiring the task force to submit reports to the Governor and the Legislature on an annual basis; providing for future repeal; amending s. 14.20195, F.S.; providing additional duties for the Suicide Prevention Coordinating Council; revising the composition of the council; amending s. 334.044, F.S.; requiring the Department of Transportation to work with the office in developing a plan relating to evidence-based suicide deterrents in certain locations; amending s. 394.455, F.S.; defining the term "first episode psychosis program"; amending s. 394.4573, F.S.; revising the requirements for the annual state behavioral health services assessment; revising the essential elements of a coordinated system of care; amending s. 394.463, F.S.; requiring that certain information be provided to the guardian or representative of a minor patient released from involuntary examination; creating s. 456.0342, F.S.; providing applicability; requiring specified persons to complete certain suicide prevention education

195908

576-03600-20

courses by a specified date; requiring certain boards to include the hours for such courses in the total hours of continuing education required for the profession; amending s. 627.6675, F.S.; conforming a provision to changes made by the act; transferring, renumbering, and amending s. 627.668, F.S.; requiring certain entities issuing, delivering, or issuing for delivery certain health insurance policies to comply with specified federal provisions that prohibit the imposition of less favorable benefit limitations on mental health and substance use disorder benefits than on medical and surgical benefits; deleting provisions relating to optional coverage for mental and nervous disorders by such entities; revising the standard for defining substance use disorders; requiring such entities to submit an annual affidavit attesting to compliance with federal law; requiring the office to implement and enforce certain federal laws in a specified manner; authorizing the Financial Services Commission to adopt rules; repealing s. 627.669, F.S., relating to optional coverage required for substance abuse impaired persons; amending s. 627.6699, F.S.; providing applicability; amending s. 641.26, F.S.; requiring certain entities to submit an annual affidavit to the Office of Insurance Regulation attesting to compliance with certain requirements; authorizing the office to adopt rules; amending s. 641.31, F.S.; requiring that certain health maintenance contracts comply with certain

requirements; authorizing the commission to adopt rules; creating s. 786.1516, F.S.; defining the terms "emergency care" and "suicide emergency"; providing that persons providing certain emergency care are not liable for civil damages or penalties under certain circumstances; amending ss. 1002.33 and 1012.583, F.S.; requiring charter schools and public schools, respectively, to incorporate certain training on suicide prevention in continuing education and inservice training requirements; providing that such schools must require all instructional personnel to participate in the training; requiring such schools to have a specified minimum number of staff members who are certified or deemed competent in the use of suicide screening instruments; requiring such schools to have a policy for such instruments; requiring such schools to report certain compliance to the Department of Education; conforming provisions to changes made by the act; amending ss. 394.495, 394.496, 394.9085, 409.972, 464.012, and 744.2007, F.S.; conforming cross-references; requiring the Office of Program Policy Analysis and Government Accountability to perform a review of certain programs and efforts relating to suicide prevention programs in other states and make certain recommendations; requiring the office to submit a report to the Legislature by a specified date; providing effective dates.

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

Section 1. Paragraphs (a) and (d) of subsection (2) of section 14.2019, Florida Statutes, are amended, paragraphs (e) and (f) are added to that subsection, and subsection (5) is added to that section, to read:

14.2019 Statewide Office for Suicide Prevention.—

(2) The statewide office shall, within available resources:

(a) Develop a network of community-based programs to improve suicide prevention initiatives. The network shall identify and work to eliminate barriers to providing suicide prevention services to individuals who are at risk of suicide. The network shall consist of stakeholders advocating suicide prevention, including, but not limited to, not-for-profit suicide prevention organizations, faith-based suicide prevention organizations, law enforcement agencies, first responders to emergency calls, veterans, servicemembers, suicide prevention community coalitions, schools and universities, mental health agencies, substance abuse treatment agencies, health care providers, and school personnel.

(d) Coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, veterans, servicemembers, health care providers, school employees, and other persons who may have contact with persons at risk of suicide.

(e) Act as a clearinghouse for information and resources related to suicide prevention by:

1. Disseminating and sharing evidence-based best practices relating to suicide prevention;

2. Collecting and analyzing data on trends in suicide and

suicide attempts annually by county, age, gender, profession, and other demographics as designated by the statewide office.

(f) Advise the Department of Transportation on the implementation of evidence-based suicide deterrents in the design elements and features of infrastructure projects throughout the state.

(5) The First Responders Suicide Deterrence Task Force, a task force as defined in s. 20.03(8), is created adjunct to the Statewide Office for Suicide Prevention.

(a) The purpose of the task force is to make recommendations on how to reduce the incidence of suicide and attempted suicide among employed or retired first responders in this state.

(b) The task force is composed of a representative of the statewide office and a representative of each of the following first responder organizations, nominated by the organization and appointed by the Secretary of Children and Families:

1. The Florida Professional Firefighters.

2. The Florida Police Benevolent Association.

3. The Florida Fraternal Order of Police: State Lodge.

4. The Florida Sheriffs Association.

5. The Florida Police Chiefs Association.

6. The Florida Fire Chiefs' Association.

(c) The task force shall elect a chair from among its membership. Except as otherwise provided, the task force shall operate in a manner consistent with s. 20.052.

(d) The task force shall identify or make recommendations on developing training programs and materials that would better enable first responders to cope with personal life stressors and

stress related to their profession and foster an organizational culture that:

1. Promotes mutual support and solidarity among active and retired first responders;

2. Trains agency supervisors and managers to identify suicidal risk among active and retired first responders;

3. Improves the use and awareness of existing resources among active and retired first responders; and

4. Educates active and retired first responders on suicide awareness and help-seeking.

(e) The task force shall identify state and federal public resources, funding and grants, first responder association resources, and private resources to implement identified training programs and materials.

(f) The task force shall report on its findings and recommendations for training programs and materials to deter suicide among active and retired first responders to the Governor, the President of the Senate, and the Speaker of the House of Representatives by each July 1, beginning in 2021, and through 2023.

(g) This subsection is repealed July 1, 2023.

Section 2. Paragraph (c) of subsection (1) and subsection (2) of section 14.20195, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) of that section, to read:

14.20195 Suicide Prevention Coordinating Council; creation; membership; duties.—There is created within the Statewide Office for Suicide Prevention a Suicide Prevention Coordinating Council. The council shall develop strategies for preventing

suicide.

(1) SCOPE OF ACTIVITY.—The Suicide Prevention Coordinating Council is a coordinating council as defined in s. 20.03 and shall:

(c) Make findings and recommendations regarding suicide prevention programs and activities, including, but not limited to, the implementation of evidence-based mental health awareness and assistance training programs and gatekeeper training in municipalities throughout the state. The council shall prepare an annual report and present it to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, each year. The annual report must describe the status of existing and planned initiatives identified in the statewide plan for suicide prevention and any recommendations arising therefrom.

(d) In conjunction with the Department of Children and Families, advise members of the public on the locations and availability of local behavioral health providers.

(2) MEMBERSHIP.—The Suicide Prevention Coordinating Council shall consist of 32 ~~27~~ voting members and one nonvoting member.

(a) Eighteen ~~Thirteen~~ members shall be appointed by the director of the Statewide Office for Suicide Prevention and shall represent the following organizations:

1. The Florida Association of School Psychologists.
2. The Florida Sheriffs Association.
3. The Suicide Prevention Action Network USA.
4. The Florida Initiative of Suicide Prevention.
5. The Florida Suicide Prevention Coalition.
6. The American Foundation of Suicide Prevention.

7. The Florida School Board Association.
8. The National Council for Suicide Prevention.
9. The state chapter of AARP.
10. The Florida Behavioral Health Association ~~The Florida Alcohol and Drug Abuse Association.~~
11. ~~The Florida Council for Community Mental Health.~~
~~12.~~ The Florida Counseling Association.
12.~~13.~~ NAMI Florida.
13. The Florida Medical Association.
14. The Florida Osteopathic Medical Association.
15. The Florida Psychiatric Society.
16. The Florida Psychological Association.
17. Veterans Florida.
18. The Florida Association of Managing Entities.

(b) The following state officials or their designees shall serve on the coordinating council:

1. The Secretary of Elderly Affairs.
2. The State Surgeon General.
3. The Commissioner of Education.
4. The Secretary of Health Care Administration.
5. The Secretary of Juvenile Justice.
6. The Secretary of Corrections.
7. The executive director of the Department of Law Enforcement.
8. The executive director of the Department of Veterans' Affairs.
9. The Secretary of Children and Families.
10. The executive director of the Department of Economic Opportunity.

(c) The Governor shall appoint four additional members to the coordinating council. The appointees must have expertise that is critical to the prevention of suicide or represent an organization that is not already represented on the coordinating council.

(d) For the members appointed by the director of the Statewide Office for Suicide Prevention, seven members shall be appointed to initial terms of 3 years, and seven members shall be appointed to initial terms of 4 years. For the members appointed by the Governor, two members shall be appointed to initial terms of 4 years, and two members shall be appointed to initial terms of 3 years. Thereafter, such members shall be appointed to terms of 4 years. Any vacancy on the coordinating council shall be filled in the same manner as the original appointment, and any member who is appointed to fill a vacancy occurring because of death, resignation, or ineligibility for membership shall serve only for the unexpired term of the member's predecessor. A member is eligible for reappointment.

(e) The director of the Statewide Office for Suicide Prevention shall be a nonvoting member of the coordinating council and shall act as chair.

(f) Members of the coordinating council shall serve without compensation. Any member of the coordinating council who is a public employee is entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

Section 3. Present paragraph (c) of subsection (10) of section 334.044, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

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

(10)

(c) The department shall work with the Statewide Office for Suicide Prevention in developing a plan to consider the implementation of evidence-based suicide deterrents on all new infrastructure projects.

Section 4. Present subsections (17) through (48) of section 394.455, Florida Statutes, are redesignated as subsections (18) through (49), respectively, and a new subsection (17) is added to that section, to read:

394.455 Definitions.—As used in this part, the term:

(17) "First episode psychosis program" means an evidence-based program for individuals between 14 and 30 years of age who are experiencing early indications of serious mental illness, especially a first episode of psychotic symptoms. The program includes, but is not limited to, intensive case management, individual or group therapy, supported employment, family education and supports, and appropriate psychotropic medication, as indicated.

Section 5. Section 394.4573, Florida Statutes, is amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports.—On or before December 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The assessment shall consider, at a minimum, the extent to which

designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability of less-restrictive services, and the use of evidence-informed practices. The assessment must also describe the availability of and access to first episode psychosis programs, and any gaps in the availability and access of such programs, in all areas of the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). Beginning in 2017, the department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(1) As used in this section:

(a) "Care coordination" means the implementation of deliberate and planned organizational relationships and service procedures that improve the effectiveness and efficiency of the behavioral health system by engaging in purposeful interactions with individuals who are not yet effectively connected with services to ensure service linkage. Examples of care coordination activities include development of referral agreements, shared protocols, and information exchange procedures. The purpose of care coordination is to enhance the delivery of treatment services and recovery supports and to improve outcomes among priority populations.

(b) "Case management" means those direct services provided to a client in order to assess his or her needs, plan or arrange services, coordinate service providers, link the service system to a client, monitor service delivery, and evaluate patient

outcomes to ensure the client is receiving the appropriate services.

(c) "Coordinated system of care" means the full array of behavioral and related services in a region or community offered by all service providers, whether participating under contract with the managing entity or by another method of community partnership or mutual agreement.

(d) "No-wrong-door model" means a model for the delivery of acute care services to persons who have mental health or substance use disorders, or both, which optimizes access to care, regardless of the entry point to the behavioral health care system.

(2) The essential elements of a coordinated system of care include:

(a) Community interventions, such as prevention, primary care for behavioral health needs, therapeutic and supportive services, crisis response services, and diversion programs.

(b) A designated receiving system that consists of one or more facilities serving a defined geographic area and responsible for assessment and evaluation, both voluntary and involuntary, and treatment or triage of patients who have a mental health or substance use disorder, or co-occurring disorders.

1. A county or several counties shall plan the designated receiving system using a process that includes the managing entity and is open to participation by individuals with behavioral health needs and their families, service providers, law enforcement agencies, and other parties. The county or counties, in collaboration with the managing entity, shall

document the designated receiving system through written memoranda of agreement or other binding arrangements. The county or counties and the managing entity shall complete the plan and implement the designated receiving system by July 1, 2017, and the county or counties and the managing entity shall review and update, as necessary, the designated receiving system at least once every 3 years.

2. To the extent permitted by available resources, the designated receiving system shall function as a no-wrong-door model. The designated receiving system may be organized in any manner which functions as a no-wrong-door model that responds to individual needs and integrates services among various providers. Such models include, but are not limited to:

a. A central receiving system that consists of a designated central receiving facility that serves as a single entry point for persons with mental health or substance use disorders, or co-occurring disorders. The central receiving facility shall be capable of assessment, evaluation, and triage or treatment or stabilization of persons with mental health or substance use disorders, or co-occurring disorders.

b. A coordinated receiving system that consists of multiple entry points that are linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. Each entry point shall be a designated receiving facility and shall, within existing resources, provide or arrange for necessary services following an initial assessment and evaluation.

c. A tiered receiving system that consists of multiple entry points, some of which offer only specialized or limited

services. Each service provider shall be classified according to its capabilities as either a designated receiving facility or another type of service provider, such as a triage center, a licensed detoxification facility, or an access center. All participating service providers shall, within existing resources, be linked by methods to share data, formal referral agreements, and cooperative arrangements for care coordination and case management.

An accurate inventory of the participating service providers which specifies the capabilities and limitations of each provider and its ability to accept patients under the designated receiving system agreements and the transportation plan developed pursuant to this section shall be maintained and made available at all times to all first responders in the service area.

(c) Transportation in accordance with a plan developed under s. 394.462.

(d) Crisis services, including mobile response teams, crisis stabilization units, addiction receiving facilities, and detoxification facilities.

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a department-approved credentialing entity as defined in s. 397.311(10) by July 1, 2017, and, thereafter, within 6 months after hire.

(f) Care coordination that involves coordination with other local systems and entities, public and private, which are

involved with the individual, such as primary care, child welfare, behavioral health care, and criminal and juvenile justice organizations.

(g) Outpatient services.

(h) Residential services.

(i) Hospital inpatient care.

(j) Aftercare and other postdischarge services.

(k) Medication-assisted treatment and medication management.

(l) Recovery support, including, but not limited to, support for competitive employment, educational attainment, independent living skills development, family support and education, wellness management and self-care, and assistance in obtaining housing that meets the individual's needs. Such housing may include mental health residential treatment facilities, limited mental health assisted living facilities, adult family care homes, and supportive housing. Housing provided using state funds must provide a safe and decent environment free from abuse and neglect.

(m) Care plans shall assign specific responsibility for initial and ongoing evaluation of the supervision and support needs of the individual and the identification of housing that meets such needs. For purposes of this paragraph, the term "supervision" means oversight of and assistance with compliance with the clinical aspects of an individual's care plan.

(n) First episode psychosis programs.

(3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific appropriation by the Legislature, the department may award system improvement grants to managing entities based on a

detailed plan to enhance services in accordance with the no-wrong-door model as defined in subsection (1) and to address specific needs identified in the assessment prepared by the department pursuant to this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements.

Section 6. Subsection (3) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(3) NOTICE OF RELEASE.—Notice of the release shall be given to the patient's guardian or representative, to any person who executed a certificate admitting the patient to the receiving facility, and to any court which ordered the patient's evaluation. If the patient is a minor, information regarding the availability of a local mobile response service, suicide prevention resources, social supports, and local self-help groups must also be provided to the patient's guardian or representative along with the notice of the release.

Section 7. Section 456.0342, Florida Statutes, is created to read:

456.0342 Required instruction on suicide prevention.—The requirements of this section apply to each person licensed or certified under chapter 458, chapter 459, or part I of chapter 464.

(1) By January 1, 2022, each licensed or certified practitioner shall complete a board-approved 2-hour continuing education course on suicide prevention. The course must address suicide risk assessment, treatment, and management.

(2) Each licensing board that requires a licensee or certificate holder to complete a course pursuant to this section must include the hours required for completion in the total hours of continuing education required by law for such profession.

Section 8. Effective January 1, 2021, paragraph (b) of subsection (8) of section 627.6675, Florida Statutes, is amended to read:

627.6675 Conversion on termination of eligibility.—Subject to all of the provisions of this section, a group policy delivered or issued for delivery in this state by an insurer or nonprofit health care services plan that provides, on an expense-incurred basis, hospital, surgical, or major medical expense insurance, or any combination of these coverages, shall provide that an employee or member whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy, and under any group policy providing similar benefits that the terminated group policy replaced, for at least 3 months immediately prior to termination, shall be entitled to have issued to him or her by the insurer a policy or certificate of health insurance, referred to in this section as a "converted policy." A group insurer may meet the requirements of this section by contracting with another insurer, authorized in this state, to issue an individual converted policy, which policy has been approved by the office under s. 627.410. An employee or member shall not be entitled to a converted policy if termination of his or her

insurance under the group policy occurred because he or she failed to pay any required contribution, or because any discontinued group coverage was replaced by similar group coverage within 31 days after discontinuance.

(8) BENEFITS OFFERED.—

(b) An insurer shall offer the benefits specified in s. 627.4193 ~~s. 627.668 and the benefits specified in s. 627.669 if those benefits were provided in the group plan~~.

Section 9. Effective January 1, 2021, section 627.668, Florida Statutes, is transferred, renumbered as section 627.4193, Florida Statutes, and amended to read:

627.4193 ~~627.668~~ Requirements for mental health and substance use disorder benefits; reporting requirements ~~Optional coverage for mental and nervous disorders required; exception~~.—

(1) Every insurer issuing, delivering, or issuing for delivery comprehensive major medical individual or~~, health maintenance organization, and nonprofit hospital and medical service plan corporation transacting~~ group health insurance policies ~~or providing prepaid health care~~ in this state must comply with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and any regulations relating to MHPAEA, including, but not limited to, 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a)(3); and must provide ~~shall make available to the policyholder as part of the application, for an appropriate additional premium under a group hospital and medical expense-incurred insurance policy, under a group prepaid health care contract, and under a group hospital and medical service plan contract,~~ the benefits or level of benefits specified in

subsection (2) for the medically necessary care and treatment of mental and nervous disorders, including substance use disorders, as described ~~defined~~ in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by ~~standard nomenclature of~~ the American Psychiatric Association~~, subject to the right of the applicant for a group policy or contract to select any alternative benefits or level of benefits as may be offered by the insurer, health maintenance organization, or service plan corporation provided that, if alternate inpatient, outpatient, or partial hospitalization benefits are selected, such benefits shall not be less than the level of benefits required under paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c), respectively~~.

(2) Under individual or group policies described in subsection (1) ~~or contracts~~, inpatient hospital benefits, partial hospitalization benefits, and outpatient benefits consisting of durational limits, dollar amounts, deductibles, and coinsurance factors may not be provided in a manner that is more restrictive than medical and surgical benefits, and limits on the scope or duration of treatments which are not expressed numerically, also known as nonquantitative treatment limitations, must be provided in a manner that is comparable and may not be applied more stringently than limits on medical and surgical benefits, in accordance with 45 C.F.R. s. 146.136(c)(2), (3), and (4) ~~shall not be less favorable than for physical illness generally, except that:~~

~~(a) Inpatient benefits may be limited to not less than 30 days per benefit year as defined in the policy or contract. If inpatient hospital benefits are provided beyond 30 days per~~

~~benefit year, the durational limits, dollar amounts, and coinsurance factors thereto need not be the same as applicable to physical illness generally.~~

~~(b) Outpatient benefits may be limited to $1,000 for consultations with a licensed physician, a psychologist licensed pursuant to chapter 490, a mental health counselor licensed pursuant to chapter 491, a marriage and family therapist licensed pursuant to chapter 491, and a clinical social worker licensed pursuant to chapter 491. If benefits are provided beyond the $1,000 per benefit year, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as applicable to physical illness generally.~~

~~(c) Partial hospitalization benefits shall be provided under the direction of a licensed physician. For purposes of this part, the term "partial hospitalization services" is defined as those services offered by a program that is accredited by an accrediting organization whose standards incorporate comparable regulations required by this state. Alcohol rehabilitation programs accredited by an accrediting organization whose standards incorporate comparable regulations required by this state or approved by the state and licensed drug abuse rehabilitation programs shall also be qualified providers under this section. In a given benefit year, if partial hospitalization services or a combination of inpatient and partial hospitalization are used, the total benefits paid for all such services may not exceed the cost of 30 days after inpatient hospitalization for psychiatric services, including physician fees, which prevail in the community in which the partial hospitalization services are rendered. If partial~~

~~hospitalization services benefits are provided beyond the limits set forth in this paragraph, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as those applicable to physical illness generally~~.

(3) Insurers must maintain strict confidentiality regarding psychiatric and psychotherapeutic records submitted to an insurer for the purpose of reviewing a claim for benefits payable under this section. These records submitted to an insurer are subject to the limitations of s. 456.057, relating to the furnishing of patient records.

(4) Every insurer shall submit an annual affidavit attesting to compliance with the applicable provisions of the MHPAEA.

(5) The office shall implement and enforce applicable provisions of MHPAEA and federal guidance or regulations relating to MHPAEA, including, but not limited to, 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a)(3), and this section.

(6) The Financial Services Commission may adopt rules to implement this section.

Section 10. Subsection (4) is added to section 627.669, Florida Statutes, to read:

627.669 Optional coverage required for substance abuse impaired persons; exception.—

(4) This section is repealed January 1, 2021.

Section 11. Effective January 1, 2021, present subsection (17) of section 627.6699, Florida Statutes, is redesignated as subsection (18), and a new subsection (17) is added to that section, to read:

627.6699 Employee Health Care Access Act.—

(17) MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS.—A health benefit plan that provides coverage to employees of a small employer is subject to s. 627.4193.

Section 12. Effective January 1, 2021, subsection (9) is added to section 641.26, Florida Statutes, to read:

641.26 Annual and quarterly reports.—

(9) Every health maintenance organization issuing, delivering, or issuing for delivery contracts providing comprehensive major medical coverage shall annually submit an affidavit to the office attesting to compliance with the requirements of s. 627.4193. The office may adopt rules to implement this subsection.

Section 13. Effective January 1, 2021, subsection (48) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(48) All health maintenance contracts that provide comprehensive medical coverage must comply with the coverage provisions of s. 627.4193. The commission may adopt rules to implement this subsection.

Section 14. Section 786.1516, Florida Statutes, is created to read:

786.1516 Immunity for providing assistance in a suicide emergency.—

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

(a) "Emergency care" means assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of a suicide emergency.

(b) "Suicide emergency" means an occurrence that reasonably

indicates an individual is at risk of dying or attempting to die by suicide.

(2) A person who provides emergency care at or near the scene of a suicide emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person providing the emergency care unless the person is grossly negligent or caused the suicide emergency.

Section 15. Present subsection (28) of section 1002.33, Florida Statutes, is redesignated as subsection (29), and a new subsection (28) is added to that section, to read:

1002.33 Charter schools.—

(28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH SUICIDE AWARENESS AND PREVENTION.—

(a) By October 1, 2020, every charter school must:

1. Incorporate 2 hours of training offered pursuant to s. 1012.583. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. Every charter school must require all instructional personnel to participate.

2. Have at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under s. 1012.583(1) and have a policy to use such suicide risk screening instrument to evaluate a student’s suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student’s suicide risk.

(b) Every charter school must report its compliance with

this subsection to the department.

Section 16. Subsections (2) and (3) of section 1012.583, Florida Statutes, are amended to read:

1012.583 Continuing education and inservice training for youth suicide awareness and prevention.—

(2) By October 1, 2020, every public school must ~~A school shall be considered a “Suicide Prevention Certified School” if it~~:

(a) Incorporate ~~Incorporates~~ 2 hours of training offered pursuant to this section. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. Every public school ~~A school that chooses to participate in the training~~ must require all instructional personnel to participate.

(b) Have ~~Has~~ at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under subsection (1) and have ~~has~~ a policy to use such suicide risk screening instrument to evaluate a student’s suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student’s suicide risk.

(3) Every public school ~~A school that meets the criteria in subsection (2)~~ must report its compliance with this section to the department. ~~The department shall keep an updated record of all Suicide Prevention Certified Schools and shall post the list of these schools on the department’s website. Each school shall also post on its own website whether it is a Suicide Prevention Certified School, and each school district shall post on its~~

~~district website a list of the Suicide Prevention Certified Schools in that district.~~

Section 17. Paragraphs (a) and (c) of subsection (3) of section 394.495, Florida Statutes, are amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

(c) A person who is under the direct supervision of a qualified professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under chapter 491.

Section 18. Subsection (5) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

(5) A professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under chapter 491 must be included among those persons developing the services plan.

Section 19. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(26)(a)4., 397.311(26)(a)1., and 394.455(40) ~~394.455(39)~~, respectively.

Section 20. Paragraph (b) of subsection (1) of section

409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

(1) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:

(b) Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice or a treatment facility as defined in s. 394.455~~(47)~~.

Section 21. Paragraph (e) of subsection (4) of section 464.012, Florida Statutes, is amended to read:

464.012 Licensure of advanced practice registered nurses; fees; controlled substance prescribing.—

(4) In addition to the general functions specified in subsection (3), an advanced practice registered nurse may perform the following acts within his or her specialty:

(e) A psychiatric nurse, who meets the requirements in s. 394.455(36) ~~s. 394.455(35)~~, within the framework of an established protocol with a psychiatrist, may prescribe psychotropic controlled substances for the treatment of mental disorders.

Section 22. Subsection (7) of section 744.2007, Florida Statutes, is amended to read:

744.2007 Powers and duties.—

(7) A public guardian may not commit a ward to a treatment facility, as defined in s. 394.455~~(47)~~, without an involuntary placement proceeding as provided by law.

Section 23. The Office of Program Policy Analysis and Government Accountability shall perform a review of suicide

prevention programs and efforts made by other states and make recommendations on their applicability to this state. The office shall submit a report containing the findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by January 1, 2021.

Section 24. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020.

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 7012
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Rouson
SUBJECT:	Mental Health
DATE:	March 2, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Delia	Hendon		**CF Submitted as Committee Bill**
1.	Sneed	Kidd	AHS	**Recommend: Fav/CS**
2.	Sneed	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7012 makes several changes to laws relating to substance abuse and mental health services. Specifically, the bill:

- Redefines "mental illness" related to the Baker Act and post-adjudication commitment to exclude dementia and traumatic brain injury.
- Defines "coordinated specialty care programs" as an essential element of a coordinated system of care and requires the DCF to report annually on any gaps in availability or access in the state. Makes coordinated specialty care programs eligible for Criminal Justice, Mental Health, and Substance Abuse Reinvestment grants.
- Allows licensed health care professional and facilities to contract with the DCF and managing entities to provide mental health services without obtaining a separate license from the DCF.
- Broadens the scope and duties of the Statewide Office of Suicide Prevention (Statewide Office) in the Department of Children and Families (DCF) by requiring the Statewide Office to coordinate education and training curricula on suicide prevention efforts for veterans and services members.
- Creates the First Responders Suicide Deterrence Task Force within the Statewide Office to assist in the reduction of suicide rates of first responders.
- Broadens the scope and duties of the Suicide Prevention Coordinating Council by requiring the Council to make recommendations on the implementation of evidence-based mental

health programs and suicide risk identification training and adds five new members to the Council.
- Adds new training and staffing requirements for instructional personnel at public and charter schools.
- Adds new continuing education requirements related to suicide prevention for various health care practitioners.
- Requires Baker Act receiving facilities to provide suicide prevention information resources to minors being released from a facility.
- Provides civil immunity to persons who help or attempt to help others at imminent risk of suicide.
- Requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review other states' suicide prevention programs and submit a report of its findings and recommendations to the Legislature.
- Requires county jails to administer the psychotropic medications prescribed by the DCF when a forensic client is discharged and returned to the county jail, unless the jail physician documents the need to change or discontinue such medication.
- Requires the DCF treating physician to consult with the jail physician and consider prescribing medication included in the jail's drug formulary.
- Requires county jails to send to the DCF all medical information on individuals in their custody who will be admitted to a state mental health treatment facility. Requires the DCF to request this information immediately upon receipt of a completed commitment packet and requires the county jail to provide such information within three business days of the request.
- Removes the requirement for prevention coalitions to be certified by the DCF.

For Fiscal Year 2020-2021, the bill provides the DCF with two full-time equivalent (FTE) positions and appropriates $418,036 in recurring funds and $8,896 in nonrecurring funds from the General Revenue Funds for the Statewide Office of Suicide Prevention to meet the workload and information sharing requirements.

The bill takes effect July 1, 2020.

II. Present Situation:

Suicide is a major public health issue and a leading cause of death nationally,[1] with complex causes such as mental health and substance use disorders, painful losses, exposure to violence, and social isolation.[2] Suicide rates increased in nearly every state from 1999 through 2016.[3] In 2017, suicide was the second leading cause of death nationwide for persons aged 10–14, 15–19,

[1] Heron M. *Deaths: Leading Causes for 2017*. National Vital Statistics Reports; Vol. 68 No 6. Hyattsville, MD: National Center for Health Statistics. 2019.
[2] Substance Abuse and Mental Health Service Administration, *Suicide Prevention*, available at: https://www.samhsa.gov/suicide-prevention (last visited November 7, 2019).
[3] Centers for Disease Control and Prevention, *Suicides Rising across the U.S.* (June 7, 2018), available at: https://www.cdc.gov/vitalsigns/suicide/index.html (last visited November 6, 2019).

and 20–24.[4] After stable trends from 2000 to 2007, suicide rates for persons aged 10–24 increased 56 percent from 2007 (6.8 per 100,000 persons) to 2017 (10.6 per 100,000 persons).[5]

While suicide is often characterized as a response to a single event or set of circumstances, suicide is the result of complex interactions among neurobiological, genetic, psychological, social, cultural, and environmental risk and protective factors.[6] The factors that contribute to any particular suicide are diverse; therefore, efforts related to suicide prevention must incorporate multiple approaches.[7]

In Florida, the rate of suicides increased by 10.6 percent from 1996 to 2016.[8] According to the 2017 Florida Morbidity Statistics Report, the total number of deaths due to suicide in Florida was 3,187 in 2017, a slight increase from 3,122 in 2016.[9] Suicide was the eighth leading cause of death in Florida, and the suicide rate per 100,000 population was 15.5. This is a slight increase from 2016 (15.4). Suicide was the second leading cause of death for individuals within the 25-34 age group in 2017, similar to the national ranking of 2016, and the third leading cause of death for individuals within 15-24 age group. Suicide was the fourth leading cause of death for individuals within the 5-14, 35-44, and 45-54 age groups.

Statewide Office for Suicide Prevention

The Statewide Office of Suicide Prevention (Statewide Office), which is housed within the Department of Children and Families (DCF), must coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, health care providers, school employees, and others who may have contact with persons at risk of suicide.[10]

The Statewide Office is allowed to seek and accept grants or funds from federal, state, or local sources to support the operation and defray the authorized expenses of the Statewide Office and the Suicide Prevention Coordinating Council.[11]

Suicide Prevention Coordinating Council

The Suicide Prevention Coordinating Council (Council) is located within the DCF and develops strategies for preventing suicide and advises the Statewide Office regarding the development of a

[4] *Supra* note 1.
[5] Heron M., Curtin, S., *Death Rates Due to Suicide and Homicide Among Persons Aged 10-24: United States, 2007-2017.* U.S. Department of Health and Human Services, Centers for Disease Control and Prevention National Center for Health Statistics, available at: https://www.cdc.gov/nchs/data/databriefs/db352-h.pdf (last visited November 6, 2019).
[6] *Supra* note 1.
[7] *Id*.
[8] *Supra* note 2.
[9] Florida Department of Health, *2017 Florida Morbidity Statistics Report*, 2017, available at: http://www.floridahealth.gov/diseases-and-conditions/disease-reporting-and-management/disease-reporting-and-surveillance/data-and-publications/_documents/2017-annual-morbidity-statistics-report.pdf (last visited November 8, 2019).
[10] Section 14.2019, F.S.
[11] *Id*.

statewide plan for suicide prevention. A report on the plan is prepared and presented annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives.[12]

The Council is currently comprised of 27 voting members and 1 nonvoting member. Thirteen of the members are appointed by the director of the Statewide Office, four are appointed by the Governor, and ten are state agency directors or their designees.[13]

Suicide among First Responders

First responders include law enforcement personnel, firefighters, and emergency medical services workers. In comparison to the general population, first responders are at heightened risk for depression, post-traumatic stress disorder (PTSD), and suicide. Further, police and firefighters are more likely to commit suicide than to die in the line of duty.[14] Many first responders previously served in the military, which likely exposed them to trauma prior to becoming a first responder.[15] Suicide amongst first responders is considered to be grossly underreported. For example, in a study conducted by the Firefighter Behavioral Health Alliance (FBHA), researchers estimate that only about 40 percent of firefighter suicides are reported.[16]

The Law Enforcement Mental Health and Wellness Act of 2017

Signed into law January 2018, the Law Enforcement Mental Health and Wellness Act of 2017 calls for the U.S. Department of Justice to review and report to Congress on mental health practices and services in the U.S. Departments of Defense and Veterans Affairs that could be adopted by law enforcement agencies to support first responders.[17] The law additionally directs the Department of Justice to make recommendations on:

- Effectiveness of crisis lines for law enforcement officers;
- Efficacy of yearly mental health checks for law enforcement officers;
- Expanded peer mentoring programs; and
- Ensuring privacy for participants of these programs.[18]

The report, provided to Congress on March 2019, includes the following recommendations to enhance mental health and reduce suicide rates:

- Support the development of resources for community-based clinicians who interact with law enforcement and their families;
- Support placement of mental health professionals in law enforcement agencies;

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[12] Section 14.20195, F.S.
[13] *Id.*
[14] Miriam Heyman, Jeff Dill, and Robert Douglas, *The Ruderman White Paper on Mental Health and Suicide of First Responders* (April 2018), pg. 7-12; available at: https://issuu.com/rudermanfoundation/docs/first_responder_white_paper_final_ac270d530f8bfb. PTSD rates amongst first responders, in contrast to the 6.8 percent reported for the general population, significantly increase to 14.6 percent to 22 percent for firefighters, and 35 percent for police officers.
[15] *Id*. at 9.
[16] *Id*.
[17] U.S. Department of Justice, *Community Oriented Policing Services (COPS), Law Enforcement Mental Health and Wellness Services (LEMHWA) Program Resources*; available at: https://cops.usdoj.gov/lemhwaresources (last visited Feb. 5, 2020).
[18] Public Law 115-113 (115th Congress).

- Encourage programs that permit retired law enforcement officers to access departmental peer support programs after separating employment;
- Support the development of model policies and implementation guidelines for agencies to make substantial efforts to reduce suicide;
- Support the creation of a Law Enforcement Suicide Event report surveillance system;
- Evaluate the efficacy of crisis lines;
- Support the expansion of peer support programs; and
- Bolster privacy protections for officers seeking support from peer crisis lines and other support programs.[19]

First-Episode Psychosis

The term "psychosis" is used to describe a condition that affects the mind and generally involves some loss of contact with reality. Psychosis can include hallucinations (seeing, hearing, smelling, tasting, or feeling something that is not real), paranoia, delusions (believing something that is not real even when presented with facts), or disordered thoughts and speech.[20] Psychosis may be caused by medications or alcohol or drug abuse but can also be a symptom of mental illness or a physical condition.[21]

Psychosis affects people from all walks of life. Approximately three out of 100 people will experience psychosis at some time in their lives, often beginning when a person is in their late teens to mid-twenties.[22] Researchers are still learning about how and why psychosis develops, but it is generally thought to be triggered by a combination of genetic predisposition and life stressors during critical stages of brain development.[23] Risk factors that may contribute to the development of psychosis include stressors such as physical illness, substance use, and psychological or physical trauma.[24]

Early psychosis, known as "first-episode psychosis," is the most important time to connect an individual with treatment.[25] Studies have shown that it is common for a person to experience psychotic symptoms for more than a year before ever receiving treatment.[26] Reducing the duration of untreated psychosis is critical to improving a person's chance of recovery. The most effective treatment for early psychosis is coordinated specialty care, which uses a team-based approach with shared decision-making that focuses on working with individuals to reach their

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[19] Spence, Deborah L., Melissa Fox, Gilbert C. Moore, Sarah Estill, and Nazmia E.A. Comrie, Community Oriented Policing Services (COPS), U.S. Dept. of Justice, *Law Enforcement Mental Health and Wellness Act, Report to Congress* (March 2019); available at: https://cops.usdoj.gov/RIC/Publications/cops-p370-pub.pdf
[20] National Institute of Mental Health, *Fact Sheet: First Episode Psychosis*, available at: https://www.nimh.nih.gov/health/topics/schizophrenia/raise/fact-sheet-first-episode-psychosis.shtml (last visited November 7, 2019).
[21] *Id*.
[22] *Id*.
[23] National Alliance on Mental Illness, *What is Early and First-Episode Psychosis?* (July 2016), available at: https://www.nami.org/NAMI/media/NAMI-Media/Images/FactSheets/What-is-Early-and-First-Episode-Psychosis.pdf (last visited November 7, 2019).
[24] *Id*.
[25] *Id*.
[26] *Supra* note 20.

recovery goals.[27] Coordinated specialty care programs provide people with early psychosis, greater improvement in their symptoms.[28]

Veterans and Mental Health

Mental Health among Veterans

According to the National Center for Post-Traumatic Stress Disorder, between 11 and 20 percent of veterans who served in Operations Iraqi Freedom and Enduring Freedom have Post-Traumatic Stress Disorder (PTSD) in a given year.[29] Additionally, 12 percent of Gulf War Veterans and 15 percent of Vietnam Veterans have PTSD, and up to 30 percent of Vietnam Veterans will have PTSD in their lifetime.[30] Statistics on depression in veterans vary, but it is estimated that between 2 and 10 percent of servicemembers return from active military operations with major depression.[31]

The 2019 National Veteran Suicide Prevention Annual Report published by the United States Department of Veterans Affairs (USDVA) details veteran deaths from suicide from 2005 to 2017.[32] During that time span, veteran suicides increased from 5,787 in 2005 to 6,139 in 2017. The annual number of veteran suicide deaths has exceeded 6,000 every year since 2008, and the annual number of veteran suicide deaths increased by 129 from 2016 to 2017.

Mental Illness and Substance Abuse of Offenders in the Criminal Justice System

As many as 125,000 adults with a mental illness or substance use disorder requiring immediate treatment are arrested and booked into Florida jails each year.[33] Between 2002 and 2010, the population of inmates with mental illness or substance use disorder in Florida increased from 8,000 to 17,000 inmates.

State Forensic System -- Mental Health Treatment for Criminal Defendants

Chapter 916, F.S., governs the state forensic system, a network of state facilities and community services for persons with mental health issues involved with the criminal justice system. The forensic system serves defendants deemed incompetent to proceed or not guilty by reason of insanity. A defendant is deemed incompetent to proceed if he or she does not have sufficient

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[27] *Supra* note 23.
[28] *First Episode Psychosis Programs: A Guide to State Expansion*, National Alliance on Mental Illness, (February 2017), available at: https://www.nami.org/getattachment/Extranet/Advocacy/FEP-State-Advocacy-Toolkit/FEP-State-Advocacy-Guide.pdf (last visited November 7, 2019).
[29] National Center for PTSD, *How Common is PTSD? PTSD and the Military*, available at: https://www.ptsd.va.gov/understand/common/common_veterans.asp (last visited November 6, 2019).
[30] *Id*.
[31] RAND Center for Military Health Policy Research, *Invisible Wounds of War: Psychological and Cognitive Injuries, Their Consequences, and Services to Assist Recovery*, at 54 (Terri Tanielian and Lisa H. Jaycox, Eds.) (2008), available at: http://www.rand.org/pubs/monographs/2008/RAND_MG720.pdf (last visited November 6, 2019).
[32] U.S. Department of Veterans Affairs, *2019 National Veteran Suicide Prevention Annual Report*, 2019, available at: https://www.mentalhealth.va.gov/docs/data-sheets/2019/2019_National_Veteran_Suicide_Prevention_Annual_Report_508.pdf (last visited November 6, 2019).
[33] The Florida Senate, *Forensic Hospital Diversion Pilot Program, Interim Report 2011-106*, (Oct. 2010), p. 1, available at: https://www.flsenate.gov/UserContent/Session/2011/Publications/InterimReports/pdf/2011-106cf.pdf (last visited February 27, 2020).

present ability to consult with his or her lawyer with a reasonable degree of rational understanding or if the defendant lacks both a rational and factual understanding of the proceedings against him or her.[34]

If a defendant is suspected of being incompetent, the court, defense counsel, or the State may file a motion to have the defendant's cognitive state assessed.[35] If the motion is granted, court-appointed experts will evaluate the defendant's cognitive state. The defendant's competency is then determined by the judge in a subsequent hearing.[36] If the defendant is found to be competent, the criminal proceeding resumes.[37] If the defendant is found to be incompetent to proceed, the proceeding may not resume unless competency is restored.[38] Competency restoration services teach defendants about the legal process, their charges, potential legal outcomes they might face, and their legal rights so as to prepare them to participate meaningfully in their own defense. [39]

Defendants may be adjudicated not guilty by reason of insanity pursuant to s. 916.15, F.S. The DCF must admit a defendant adjudicated not guilty by reason of insanity who is committed to the department[40] to an appropriate facility or program for treatment and must retain and treat the defendant.[41]

Offenders who are charged with a felony and deemed incompetent to proceed and offenders adjudicated not guilty by reason of insanity may be involuntarily committed to state civil[42] and forensic[43] treatment facilities by the circuit court,[44, 45] or in lieu of such commitment, may be released on conditional release by the circuit court if the person is not serving a prison sentence.[46]

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[34] Section 916.12(1), F.S.
[35] Rule 3.210, Fla.R.Crim.P.
[36] *Id.*
[37] Rule 3.212, Fla.R.Crim.P.
[38] *Id.*
[39] OPPAGA, *Juvenile and Adult Incompetent to Proceed Cases and Costs*, Report. No. 13-04, Feb. 2013, p. 1, available at: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1304rpt.pdf (last visited February 27, 2020).
[40] The court may also order outpatient treatment at any other appropriate facility or service or discharge the defendant. Rule 3.217, Fla.R.Crim.P.
[41] Section 916.15(3), F.S.
[42] A "civil facility" is a mental health facility established within the DCF or by contract with the DCF to serve individuals committed pursuant to chapter 394, F.S., and defendants pursuant to chapter 916, F.S., who do not require the security provided in a forensic facility; or an intermediate care facility for the developmentally disabled, a foster care facility, a group home facility, or a supported living setting designated by the Agency for Persons with Disabilities (APD) to serve defendants who do not require the security provided in a forensic facility. Section 916.106(4), F.S.
[43] A "forensic facility" is a separate and secure facility established within the DCF or APD to service forensic clients. A separate and secure facility means a security-grade building for the purpose of separately housing persons who have mental illness from persons who have intellectual disabilities or autism and separately housing persons who have been involuntarily committed pursuant to chapter 916, F.S., from non-forensic residents. S. 916.106(10), F.S.
[44] "Court" is defined to mean the circuit court. Section 916.106(5), F.S.
[45] Sections 916.13, 916.15, and 916.302, F.S.
[46] Sections 916.17(1), F.S.

Sharing Medical Information between County Jails and the DCF

Forensic clients committed to the DCF's state mental health treatment facilities are transferred to the facilities directly from the county jails, and often need immediate or continuous medical treatment. Jail physicians must provide a current psychotropic medication[47] order at the time a forensic client is transferred to the state mental health treatment facility or upon request of the admitting physician following an evaluation.[48] However, there is no timeframe within which a jail physician must respond to a request by the DCF for such information, nor is there any requirement for jail physicians to provide other medical information about individuals being transferred to the DCF. While the DCF currently requests medical information from the county jails when a commitment packet is received from the courts, there is no time requirement within which the DCF must make the request.[49]

Continuation of Psychiatric Medications

When forensic clients are released from state mental health treatment facilities, most are returned to the county jail to await resolution of their court cases. Some individuals are maintained by county jails on the same psychiatric medication regimen prescribed and administered at the state mental health treatment facility, while others are not. One possible outcome of discontinuing the previous medication regimen is the individual again losing competency, in which case the jail must return him or her to a secure forensic facility due to an inability to stand trial or proceed with resolution of his or her court case.[50]

Licensure Requirements for Substance Abuse Service Providers

The DCF regulates substance abuse treatment by licensing individual treatment components under statute and rule.[51] All private and publicly-funded entities providing substance abuse services must be licensed for each service component they provide.[52] However, current law exempts:

- Hospitals licensed under ch. 395, F.S.;
- Nursing home facilities;
- Substance abuse education program established pursuant to s. 1003.42, F.S.;
- Facilities operated by the Federal Government;
- A physician or physician assistant licensed under chs. 458 or 459, F.S.;
- Psychologist licensed under ch. 490, F.S.;
- Social workers, marriage and family therapist or mental health counselors licensed under ch. 491, F.S.;

[47] Psychotropic medication is a broad term referring to medications that affect mental function, behavior, and experience; these medications include anxiolytic/hypnotic medications, such as benzodiazepines, antidepressant medications, such as selective serotonin reuptake inhibitors (SSRIs), and antipsychotic medications. Pamela L. Lindsey, *Psychotropic Medication Use among Older Adults: What All Nurses Need to Know*, J. GERONTOL NURS., (Sept. 2009), *available at:* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3128509/ (last visited February 27, 2020).
[48] Section 916.107(3)(a)2.a., F.S.
[49] *Id.*
[50] *Id.*
[51] Ch. 397, F.S. and R. 65D-30, F.A.C.
[52] Section 397.403, F.S.

- Churches or nonprofit religious organizations providing substance abuse services that are solely religious, spiritual or ecclesiastical in nature;
- Facilities licensed under ch. 393, F.S.;
- Crisis stabilization units licensed under ch. 394, F.S,;
- DUI education and screening services provider under chs. 316 or 322, F.S.[53]

The exemptions from licensure do not apply if the entity provides state-funded services through the DCF managing entity system or provides services under a government-operated substance abuse program.[54]

Licensed service components include a continuum of substance abuse prevention,[55] intervention,[56] and clinical treatment services.[57] Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.[58] "Clinical treatment services" include, but are not limited to, the following licensable service components:[59]

- Addictions receiving facility;
- Day or night treatment;
- Day or night treatment with community housing;
- Detoxification;
- Intensive inpatient treatment;
- Intensive outpatient treatment;
- Medication-assisted treatment for opiate addiction;
- Outpatient treatment; and
- Residential treatment.

Certification of Community Substance Abuse Prevention Coalitions

Section 397.321, F.S., requires the DCF to license and regulate all substance abuse providers in the state. It also requires the DCF to develop a certification process by rule for community substance abuse prevention coalitions (prevention coalitions).

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[53] Section 397.4012, F.S.
[54] *Id.*
[55] Section 397.311(26)(c), F.S. Prevention is a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles. *See also,* Department of Children and Families, *Substance Abuse: Prevention,* https://www.myflfamilies.com/service-programs/samh/prevention/ (last visited Jan. 21, 2020). Substance abuse prevention is best accomplished through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments.
[56] Section 397.311(26)(b), F.S. Intervention is structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.
[57] Section 397.311(25), F.S.
[58] *Id.*
[59] Section 397.311(25)(a), F.S.

Prevention coalitions are local partnerships between multiple sectors of the community that respond to community conditions by developing and implementing comprehensive plans that lead to measurable, population-level reductions in drug use and related problems.[60] They do not provide substance abuse treatment services, and certification is not a requirement for eligibility to receive federal or state substance abuse prevention funding. However, to receive funding from the DCF, a coalition must follow a comprehensive process that includes a detailed needs assessment and plan for capacity building, development, implementation, and sustainability to ensure that data-driven, evidence–based practices are employed for addressing substance misuse for state-funded coalitions.[61]

Some prevention coalitions choose to apply for certification from nationally-recognized credentialing entities. Additionally, the Florida Certification Board, a non-profit professional credentialing entity, offers certifications for Certified Prevention Specialists and Certified Prevention Professionals, for those individuals who desire professional credentialing. However, Florida is the only state that requires prevention coalitions to be certified. Only one other state, Ohio, has established a certification program for prevention coalitions, and it is voluntary.[62]

Continuing Education Requirements for Health Care Practitioners

Compliance with continuing education (CE) requirements is a condition of renewal of licensure for health care practitioners. Boards, or the Department of Health (DOH) when there is no board, require each licensee to demonstrate competency by completing CEs during each licensure cycle. The number of required CE hours varies by profession. The requirements for CEs may be found in ch. 456, F.S., professional practice acts, administrative rules, or a combination of these references. Failure to comply with CE requirements may result in disciplinary action against the licensee, in accordance with the disciplinary guidelines established by the applicable board, or the DOH if there is no board.

The DOH or boards, when applicable, monitor heath care practitioner's compliance with the CE requirements in a manner required by statute. The statutes vary as to the required method to use. For example, the DOH or a board, when applicable, may have to randomly select a licensee to request the submission of CE documentation,[63] require a licensee to a submit sworn affidavit or statement attesting that he or she has completed the required CE hours,[64] or perform an audit. Licensees are responsible for maintaining documentation of the CE courses completed.

The Good Samaritan Act

The "Good Samaritan Act," codified in s. 768.13, F.S., provides immunity from civil liability for damages to any person who:

[60] Department of Children and Families, Agency Bill Analysis, SB 1678, January 14, 2020. On file with the Senate Children, Families, and Elder Affairs Committee.
[61] *Id.*
[62] *Id.*
[63] Section 457.107, F.S.
[64] Sections 458.347(4)(e), 466.0135(6), 466.014, and 466.032(5), F.S.

- Gratuitously and in good faith renders emergency care or treatment either in direct response to declared state emergencies or at the scene of an emergency situation, without objection of the injured victim, if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.[65]
- Participates in emergency response activities of a community emergency response team if that person acts prudently and within the scope of his or her training.[66]
- Gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.[67]

The Good Samaritan Act, however, does not specifically address immunity from liability for individuals who attempt to render aid to others at risk of dying or attempting to die by suicide. Several states have implemented such measures in their Good Samaritan statutes in order to shield those who make a good faith effort to render aid from civil liability.[68]

Suicide Prevention Certified Schools

Section 1012.583, F.S., requires the Department of Education (DOE), in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, to develop a list of approved youth suicide awareness and prevention training materials and suicide screening instruments that may be used for training in youth suicide awareness, suicide prevention and suicide screening for school instructional personnel. The approved list of materials:[69]

- Must identify available standardized suicide screening instruments appropriate for use with a school-age population and which have validity and reliability and include information about obtaining instruction in the administration and use of such instruments.
- Must include training on how to identify appropriate mental health services and how to refer youth and their families to those services;
- May include materials currently being used by a school district if such materials meet any criteria established by the department; and
- May include programs that instructional personnel can complete through a self-review of approved youth suicide awareness and prevention materials.

A school is considered a "Suicide Prevention Certified School" if it:

- Has at least two school-based staff members certified or otherwise deemed competent in the use of a DOE-approved suicide screening instrument; and
- Chooses to incorporate 2 hours of the DOE-approved training materials and requires all of its instructional personnel to participate in the training.

Currently, neither public school instructional personnel nor charter school instructional personnel are required to participate in suicide prevention training, or be certified or deemed competent in

[65] Section 768.13(2)(a), F.S.
[66] Section 768.13(2)(d), F.S.
[67] Section 768.13(3), F.S.
[68] Schiff, Damien, *Samaritans: Good, Bad and Ugly: A Comparative Law Analysis*, 11 Roger Williams Univ. L. Rev. 95 (2005).
[69] Section 1012.583(1), F.S.

the use of a suicide risk screening instrument. Additionally, neither public schools nor charter schools are required to use a suicide risk screening instrument to evaluate a student's suicide risk prior to initiating or requesting to initiate the Baker Act.

III. Effect of Proposed Changes:

Section 1 amends s. 14.2019, F.S., adding veterans and service members to the list of stakeholders that comprise the network of community-based programs intended to improve suicide prevention initiatives. The bill also requires the Statewide Office to coordinate education and training curricula in suicide prevention efforts for veterans and service members. The bill requires the Statewide Office to act as a clearinghouse for information and resources related to suicide prevention by disseminating evidence-based practices and by collecting and analyzing data on trends in suicide by various population demographics. The bill requires the Statewide Office to advise the Florida Department of Transportation (DOT) on the implementation of evidence-based suicide deterrents when designing new infrastructure projects.

The bill establishes the First Responders Suicide Deterrence Task Force within and supported by the Statewide Office for Suicide Prevention. The purpose of the task force is to make recommendations on how to reduce the incidence of suicide among current and retired first responders. The task force is made up of representatives of the Florida Professional Firefighters, the Florida Police Benevolent Association, the Florida Fraternal Order of Police, the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Fire Chiefs' Association.

The bill also requires the task force to identify or develop training programs and materials to better enable first responders to cope with life and work stress and foster an organizational culture that supports first responders. The bill identifies a supportive organizational culture as one that:

- Promotes mutual support and solidarity among first responders;
- Trains agency supervisors and managers to identify suicidal risk among first responders;
- Improves the use of existing resources by first responders; and
- Educates first responders on suicide awareness and resources for help.

The bill requires the task force to identify public and private resources to implement the training programs and materials. The task force must report its findings and recommendations to the Governor and Legislature each July 1, beginning in 2021. Consistent with s. 20.03, F.S., the task force expires after 3 years.

Section 2 amends s. 14.20195, F.S., directing the Suicide Prevention Coordinating Council (Council) to make findings and recommendations regarding suicide prevention specifically related to the implementation of evidence-based mental health awareness and assistance training programs and gatekeeper training throughout the state. The bill requires the Council to work with the DCF to advise the public on the locations and availability of local behavioral health providers.

The bill also adds five new voting members to the Council and requires that 18, rather than 13, members be appointed by the director of the Statewide Office. The bill amends the list of organizations appointed by the Statewide Office to include:

- The Florida Behavioral Health Association (the bill eliminates the individual memberships of the Florida Alcohol and Drug Abuse Association and the Florida Council for Community Mental Health because these organizations have merged to form the Florida Behavioral Health Association);
- The Florida Medical Association;
- The Florida Osteopathic Medical Association;
- The Florida Psychiatric Society;
- The Florida Psychological Association;
- Veterans Florida; and
- The Florida Association of Managing Entities.

Section 3 amends s. 334.044, F.S., requiring the DOT to work with the Statewide Office in developing a plan to consider evidence-based suicide deterrents on all newly planned infrastructure projects throughout the state.

Section 4 amends s. 394.455, F.S., defining "coordinated specialty care programs" as evidence-based programs that use intensive case management, individual or group therapy, supported employment, family education and supports, and appropriate psychotropic medication to treat individuals who are experiencing early indications of serious mental illness, especially first-episode psychosis. The bill also redefines the term "mental illness" related to Baker Act and post-adjudication commitment to exclude dementia and traumatic brain injury.

Section 5 amends s. 394.4573, F.S., establishing coordinated specialty care programs as an essential element of a coordinated system of care and requires the DCF to conduct an assessment of the availability of and access to coordinated specialty care programs in the state, including any gaps in availability or access that may exist. This assessment must be included in the DCF's annual report to the Governor and Legislature on the assessment of behavioral health services in the state.

Section 6 amends s. 394.463, F.S., requiring facilities who hold and release Baker Act patients who are minors to provide information regarding the availability of mobile response teams, suicide prevention resources, social supports, and local self-help groups to the patient's guardian upon release.

Section 7 amends s. 394.658, F.S., to include "coordinated specialty care programs" in the list of support programs or diversion initiatives eligible for an implementation or expansion grant under the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program.

Section 8 amends s. 394.67, F.S., to define a "coordinated specialty care program" as an evidence-based program for individuals who are experiencing early indications of serious mental illness, such as symptoms of a first psychotic episode, including, but not limited to, intensive case management, individual or group therapy, supported employment, family education and supports, and the provision of appropriate psychotropic medication as needed.

Section 9 amends s. 397.311, F.S., to replace the term "medication-assisted treatment for opiate addiction" with "medication-assisted treatment opioid use disorders."

Section 10 amends s. 397.321, F.S., to delete the requirement that the DCF develop a certification process by rule for community substance abuse prevention. As a result, prevention coalitions would no longer be subject to a certification process.

Section 11 amends s. 397.4012, F.S., to allow the following substance abuse service providers to be exempt from licensure if they contract with the DCF or a managing entity:

- A hospital or hospital-based component;
- A nursing home facility;
- An allopathic or osteopathic physician or physician assistant;
- A psychologist;
- A social worker;
- A marriage and family therapist;
- A mental health counselor; and
- A crisis stabilization unit.

Allowing certain substance abuse service providers an exemption from licensure may increase the number of providers available to the DCF and managing entities to provide substance abuse services.

Section 12 creates s. 456.0342, F.S., adding suicide prevention to the continuing education (CE) requirements for allopathic physicians, osteopath physicians, and nurses, effective January 1, 2022. Such licensees must complete two hours of CE courses on suicide risk assessment, treatment, and management. The bill requires the respective licensing board for each of the three professions to include the hours required for completion in the total hours of continuing education required by law.

Section 13 creates s. 786.1516, F.S., defining 'emergency care' to mean assistance or advice offered to avoid or attempt to mitigate a suicide emergency. The bill defines a 'suicide emergency' as an occurrence that reasonably indicates one is at risk of dying of or attempting suicide. The bill provides civil immunity for persons who provide emergency care at or near the scene of a suicide emergency.

Section 14 amends s. 916.106, F.S., the Forensic Client Services Act, to exclude defendants with dementia and traumatic brain injury who do not have a co-occurring mental illness from the definition of "mental illness."

Section 15 amends s. 913.13, F.S., relating to the involuntary commitment of a defendant adjudicated incompetent, to require jail physicians to continue to administer the same psychotropic medication from a mental health treatment facility, unless there is a documented need to change or discontinue the medication. The bill requires jail physicians to collaborate with the DCF treating physicians to ensure any changes to the medication regimen do not adversely impact the ability of the defendant to proceed with court proceedings. The bill provides that jail

physicians have the final authority for determining which medication to administer to jail inmates.

The bill requires the DCF to request medical information from a jail within two days of receipt of a commitment order and jails are required to send the information to the DCF within three days after the receipt of a request from the DCF.

Section 16 applies the same provisions under Section 15 of the bill to s. 916.15, F.S., relating to the involuntary commitment of a defendant adjudicated not guilty by reason of insanity.

Section 17 amends s. 1002.33, F.S., requiring all charter schools to incorporate 2 hours of suicide prevention training for all instructional personnel by October 1, 2020. The bill also requires all charter schools to have at least 2 school-based staff members certified or otherwise competent in the use of an approved suicide screening instrument and have a policy in place to utilize the instrument to gauge a student's suicide risk before initiating a Baker Act or requesting the initiation of a Baker Act. The bill requires each charter school to report their compliance with these provisions to the DOE.

Section 18 amends s. 1012.583, F.S., putting in place the same requirements for public schools as those detailed in Section 15 for charter schools. The bill also eliminates the 'Suicide Prevention Certified School' designation in statute.

Section 19 amends s. 39.407, F.S., to correct a cross-reference related to medical, psychiatric, and psychological examination and treatment of a child.

Section 20 amends s. 394.495, F.S., to correct cross-references related to child and adolescent mental health systems of care.

Section 21 amends s. 394.496, F.S., to correct cross-references related to service planning.

Section 22 amends s. 394.674, F.S., to correct a cross-reference related to fee collection requirements for eligibility for publicly funded substance abuse and mental health services.

Section 23 amends s. 394.74, F.S., to correct a cross-reference related to contracts for provision of local substance abuse and mental health programs.

Section 24 amends s. 394.9085, F.S., to correct a cross-reference related to behavioral provider liability.

Section 25 amends s. 409.972, F.S., to correct a cross-reference related to mandatory and voluntary enrollment in Medicaid.

Section 26 amends s. 464.012, F.S., to correct a cross-reference related to licensure of advanced registered nurse practitioners, fees, and controlled substance prescribing.

Section 27 amends s. 744.2007, F.S., to correct a cross-reference related to powers and duties of public guardians.

Section 28 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform a review of suicide prevention programs in other states and make recommendations on their applicability to Florida. The bill also requires the OPPAGA to submit a report containing the findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by January 1, 2021.

Section 29 provides the DCF with two full-time equivalent positions, salary rate of 90,384, and an appropriation for Fiscal Year 2020-2021 of $418,036 in recurring and $8,896 nonrecurring funds from the General Revenue Fund to implement the bill.

Section 30 provides an effective date for the bill of July 1, 2020.

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:

CS/SB 7012 provides the DCF with two full-time equivalent positions, salary rate of 90,384, and an appropriation for Fiscal Year 2020-2021 of $418,036 in recurring and $8,896 nonrecurring funds from the General Revenue Fund to implement the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.2019, 14.20195, 39.407, 334.044, 394.455, 394.4573, 394.463, 394.495, 394.496, 394.658, 394.67, 394.674, 394.74, 394.9085, 397.311, 397.321, 397.4012, 409.972, 464.012, 744.2007, 916.106, 916.13, 916.15, 1002.33, and 1012.583.

This bill creates the following sections of the Florida Statutes: 456.0342 and 786.1516.

IX. Additional Information:

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

CS by Appropriations on February 27, 2020:
The committee substitute:

- Creates the First Responders Suicide Deterrence Task Force within the Statewide Office of Suicide Prevention for the purpose of providing recommendations on reducing suicide rates amongst active and retired first responders.
- Requires the task force to identify or develop training programs, materials, and resources to better enable first responders to cope with life and work stress and foster a supportive organizational culture.
- Provides for the membership of the task force.
- Requires the task force to report findings and recommendations on preventing suicide to the Governor and Legislature each July 1, from 2021 through 2023.
- Provides for the expiration of the task force in 3 years.
- Defines “coordinated specialty care programs” as an essential element of a coordinated system of care and requires the DCF to report annually on gaps in availability or access of such programs in the state. Makes coordinated specialty care programs eligible for Criminal Justice, Mental Health, and Substance Abuse Reinvestment grants.
- Allows licensed health care professional and facilities to contract with the DCF and managing entities to provide mental health services without obtaining a separate license from the DCF.

- Provides two full-time equivalent positions, associated salary rate, and appropriations of $418,036 in recurring funds and $8,896 in nonrecurring funds from the General Revenue Fund to the DCF to carry out the duties for the Office of Suicide Prevention provided for in the bill.
- Redefines "mental illness" related to the Baker Act and post-adjudication commitment to exclude dementia and traumatic brain injury.
- Replaces the term "first episode psychosis program" with "coordinated specialty care program" and replaces the term "opiate addiction" with "opioid use disorder" in the definition of medication assisted treatment.
- Removes all bill provisions relating to federal mental health parity laws.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs

586-01370-20 20207012__

A bill to be entitled

An act relating to mental health; amending s. 14.2019, F.S.; providing additional duties for the Statewide Office for Suicide Prevention; amending s. 14.20195, F.S.; providing additional duties for the Suicide Prevention Coordinating Council; revising the composition of the council; amending s. 334.044, F.S.; requiring the Department of Transportation to work with the office in developing a plan relating to evidence-based suicide deterrents in certain locations; amending s. 394.455, F.S.; defining the term "first episode psychosis program"; amending s. 394.4573, F.S.; revising the requirements for the annual state behavioral health services assessment; revising the essential elements of a coordinated system of care; amending s. 394.463, F.S.; requiring that certain information be provided to the guardian or representative of a minor patient released from involuntary examination; creating s. 456.0342, F.S.; providing applicability; requiring specified persons to complete certain suicide prevention education courses by a specified date; requiring certain boards to include the hours for such courses in the total hours of continuing education required for the profession; amending s. 627.6675, F.S.; conforming a provision to changes made by the act; transferring, renumbering, and amending s. 627.668, F.S.; requiring certain entities issuing, delivering, or issuing for delivery certain health insurance policies to comply

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with specified federal provisions that prohibit the imposition of less favorable benefit limitations on mental health and substance use disorder benefits than on medical and surgical benefits; deleting provisions relating to optional coverage for mental and nervous disorders by such entities; revising the standard for defining substance use disorders; requiring such entities to submit an annual affidavit attesting to compliance with federal law; requiring the office to implement and enforce certain federal laws in a specified manner; authorizing the Financial Services Commission to adopt rules; repealing s. 627.669, F.S., relating to optional coverage required for substance abuse impaired persons; amending s. 627.6699, F.S.; providing applicability; amending s. 641.26, F.S.; requiring certain entities to submit an annual affidavit to the Office of Insurance Regulation attesting to compliance with certain requirements; authorizing the office to adopt rules; amending s. 641.31, F.S.; requiring that certain health maintenance contracts comply with certain requirements; authorizing the commission to adopt rules; creating s. 786.1516, F.S.; defining the terms "emergency care" and "suicide emergency"; providing that persons providing certain emergency care are not liable for civil damages or penalties under certain circumstances; amending ss. 1002.33 and 1012.583, F.S.; requiring charter schools and public schools, respectively, to incorporate certain training on

suicide prevention in continuing education and inservice training requirements; providing that such schools must require all instructional personnel to participate in the training; requiring such schools to have a specified minimum number of staff members who are certified or deemed competent in the use of suicide screening instruments; requiring such schools to have a policy for such instruments; requiring such schools to report certain compliance to the Department of Education; conforming provisions to changes made by the act; amending ss. 394.495, 394.496, 394.9085, 409.972, 464.012, and 744.2007, F.S.; conforming cross-references; requiring the Office of Program Policy Analysis and Government Accountability to perform a review of certain programs and efforts relating to suicide prevention programs in other states and make certain recommendations; requiring the office to submit a report to the Legislature by a specified date; providing effective dates.

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

Section 1. Paragraphs (a) and (d) of subsection (2) of section 14.2019, Florida Statutes, are amended, and paragraphs (e) and (f) are added to that subsection, to read:

14.2019 Statewide Office for Suicide Prevention.—

(2) The statewide office shall, within available resources:

(a) Develop a network of community-based programs to improve suicide prevention initiatives. The network shall

identify and work to eliminate barriers to providing suicide prevention services to individuals who are at risk of suicide. The network shall consist of stakeholders advocating suicide prevention, including, but not limited to, not-for-profit suicide prevention organizations, faith-based suicide prevention organizations, law enforcement agencies, first responders to emergency calls, veterans, servicemembers, suicide prevention community coalitions, schools and universities, mental health agencies, substance abuse treatment agencies, health care providers, and school personnel.

(d) Coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, veterans, servicemembers, health care providers, school employees, and other persons who may have contact with persons at risk of suicide.

(e) Act as a clearinghouse for information and resources related to suicide prevention by:

1. Disseminating and sharing evidence-based best practices relating to suicide prevention;

2. Collecting and analyzing data on trends in suicide and suicide attempts annually by county, age, gender, profession, and other demographics as designated by the statewide office.

(f) Advise the Department of Transportation on the implementation of evidence-based suicide deterrents in the design elements and features of infrastructure projects throughout the state.

Section 2. Paragraph (c) of subsection (1) and subsection (2) of section 14.20195, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) of that section, to

read:

14.20195 Suicide Prevention Coordinating Council; creation; membership; duties.—There is created within the Statewide Office for Suicide Prevention a Suicide Prevention Coordinating Council. The council shall develop strategies for preventing suicide.

(1) SCOPE OF ACTIVITY.—The Suicide Prevention Coordinating Council is a coordinating council as defined in s. 20.03 and shall:

(c) Make findings and recommendations regarding suicide prevention programs and activities, including, but not limited to, the implementation of evidence-based mental health awareness and assistance training programs and gatekeeper training in municipalities throughout the state. The council shall prepare an annual report and present it to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, each year. The annual report must describe the status of existing and planned initiatives identified in the statewide plan for suicide prevention and any recommendations arising therefrom.

(d) In conjunction with the Department of Children and Families, advise members of the public on the locations and availability of local behavioral health providers.

(2) MEMBERSHIP.—The Suicide Prevention Coordinating Council shall consist of 32 ~~27~~ voting members and one nonvoting member.

(a) Eighteen ~~Thirteen~~ members shall be appointed by the director of the Statewide Office for Suicide Prevention and shall represent the following organizations:

1. The Florida Association of School Psychologists.

2. The Florida Sheriffs Association.

3. The Suicide Prevention Action Network USA.

4. The Florida Initiative of Suicide Prevention.

5. The Florida Suicide Prevention Coalition.

6. The American Foundation of Suicide Prevention.

7. The Florida School Board Association.

8. The National Council for Suicide Prevention.

9. The state chapter of AARP.

10. The Florida Behavioral Health Association ~~The Florida Alcohol and Drug Abuse Association.~~

11. ~~The Florida Council for Community Mental Health.~~

~~12.~~ The Florida Counseling Association.

12.~~13.~~ NAMI Florida.

13. The Florida Medical Association.

14. The Florida Osteopathic Medical Association.

15. The Florida Psychiatric Society.

16. The Florida Psychological Association.

17. Veterans Florida.

18. The Florida Association of Managing Entities.

(b) The following state officials or their designees shall serve on the coordinating council:

1. The Secretary of Elderly Affairs.

2. The State Surgeon General.

3. The Commissioner of Education.

4. The Secretary of Health Care Administration.

5. The Secretary of Juvenile Justice.

6. The Secretary of Corrections.

7. The executive director of the Department of Law Enforcement.

8. The executive director of the Department of Veterans' Affairs.

9. The Secretary of Children and Families.

10. The executive director of the Department of Economic Opportunity.

(c) The Governor shall appoint four additional members to the coordinating council. The appointees must have expertise that is critical to the prevention of suicide or represent an organization that is not already represented on the coordinating council.

(d) For the members appointed by the director of the Statewide Office for Suicide Prevention, seven members shall be appointed to initial terms of 3 years, and seven members shall be appointed to initial terms of 4 years. For the members appointed by the Governor, two members shall be appointed to initial terms of 4 years, and two members shall be appointed to initial terms of 3 years. Thereafter, such members shall be appointed to terms of 4 years. Any vacancy on the coordinating council shall be filled in the same manner as the original appointment, and any member who is appointed to fill a vacancy occurring because of death, resignation, or ineligibility for membership shall serve only for the unexpired term of the member's predecessor. A member is eligible for reappointment.

(e) The director of the Statewide Office for Suicide Prevention shall be a nonvoting member of the coordinating council and shall act as chair.

(f) Members of the coordinating council shall serve without compensation. Any member of the coordinating council who is a public employee is entitled to reimbursement for per diem and

travel expenses as provided in s. 112.061.

Section 3. Present paragraph (c) of subsection (10) of section 334.044, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

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

(10)

(c) The department shall work with the Statewide Office for Suicide Prevention in developing a plan to consider the implementation of evidence-based suicide deterrents on all new infrastructure projects.

Section 4. Present subsections (17) through (48) of section 394.455, Florida Statutes, are redesignated as subsections (18) through (49), respectively, and a new subsection (17) is added to that section, to read:

394.455 Definitions.—As used in this part, the term:

(17) "First episode psychosis program" means an evidence-based program for individuals between 14 and 30 years of age who are experiencing early indications of serious mental illness, especially a first episode of psychotic symptoms. The program includes, but is not limited to, intensive case management, individual or group therapy, supported employment, family education and supports, and appropriate psychotropic medication, as indicated.

Section 5. Section 394.4573, Florida Statutes, is amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement

grants; reports.—On or before December 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The assessment shall consider, at a minimum, the extent to which designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability of less-restrictive services, and the use of evidence-informed practices. The assessment must also describe the availability of and access to first episode psychosis programs, and any gaps in the availability and access of such programs, in all areas of the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). Beginning in 2017, the department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(1) As used in this section:

(a) "Care coordination" means the implementation of deliberate and planned organizational relationships and service procedures that improve the effectiveness and efficiency of the behavioral health system by engaging in purposeful interactions with individuals who are not yet effectively connected with services to ensure service linkage. Examples of care coordination activities include development of referral agreements, shared protocols, and information exchange procedures. The purpose of care coordination is to enhance the delivery of treatment services and recovery supports and to

improve outcomes among priority populations.

(b) "Case management" means those direct services provided to a client in order to assess his or her needs, plan or arrange services, coordinate service providers, link the service system to a client, monitor service delivery, and evaluate patient outcomes to ensure the client is receiving the appropriate services.

(c) "Coordinated system of care" means the full array of behavioral and related services in a region or community offered by all service providers, whether participating under contract with the managing entity or by another method of community partnership or mutual agreement.

(d) "No-wrong-door model" means a model for the delivery of acute care services to persons who have mental health or substance use disorders, or both, which optimizes access to care, regardless of the entry point to the behavioral health care system.

(2) The essential elements of a coordinated system of care include:

(a) Community interventions, such as prevention, primary care for behavioral health needs, therapeutic and supportive services, crisis response services, and diversion programs.

(b) A designated receiving system that consists of one or more facilities serving a defined geographic area and responsible for assessment and evaluation, both voluntary and involuntary, and treatment or triage of patients who have a mental health or substance use disorder, or co-occurring disorders.

1. A county or several counties shall plan the designated

receiving system using a process that includes the managing entity and is open to participation by individuals with behavioral health needs and their families, service providers, law enforcement agencies, and other parties. The county or counties, in collaboration with the managing entity, shall document the designated receiving system through written memoranda of agreement or other binding arrangements. The county or counties and the managing entity shall complete the plan and implement the designated receiving system by July 1, 2017, and the county or counties and the managing entity shall review and update, as necessary, the designated receiving system at least once every 3 years.

2. To the extent permitted by available resources, the designated receiving system shall function as a no-wrong-door model. The designated receiving system may be organized in any manner which functions as a no-wrong-door model that responds to individual needs and integrates services among various providers. Such models include, but are not limited to:

a. A central receiving system that consists of a designated central receiving facility that serves as a single entry point for persons with mental health or substance use disorders, or co-occurring disorders. The central receiving facility shall be capable of assessment, evaluation, and triage or treatment or stabilization of persons with mental health or substance use disorders, or co-occurring disorders.

b. A coordinated receiving system that consists of multiple entry points that are linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. Each entry point shall be a

designated receiving facility and shall, within existing resources, provide or arrange for necessary services following an initial assessment and evaluation.

c. A tiered receiving system that consists of multiple entry points, some of which offer only specialized or limited services. Each service provider shall be classified according to its capabilities as either a designated receiving facility or another type of service provider, such as a triage center, a licensed detoxification facility, or an access center. All participating service providers shall, within existing resources, be linked by methods to share data, formal referral agreements, and cooperative arrangements for care coordination and case management.

An accurate inventory of the participating service providers which specifies the capabilities and limitations of each provider and its ability to accept patients under the designated receiving system agreements and the transportation plan developed pursuant to this section shall be maintained and made available at all times to all first responders in the service area.

(c) Transportation in accordance with a plan developed under s. 394.462.

(d) Crisis services, including mobile response teams, crisis stabilization units, addiction receiving facilities, and detoxification facilities.

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a

department-approved credentialing entity as defined in s. 397.311(10) by July 1, 2017, and, thereafter, within 6 months after hire.

(f) Care coordination that involves coordination with other local systems and entities, public and private, which are involved with the individual, such as primary care, child welfare, behavioral health care, and criminal and juvenile justice organizations.

(g) Outpatient services.

(h) Residential services.

(i) Hospital inpatient care.

(j) Aftercare and other postdischarge services.

(k) Medication-assisted treatment and medication management.

(l) Recovery support, including, but not limited to, support for competitive employment, educational attainment, independent living skills development, family support and education, wellness management and self-care, and assistance in obtaining housing that meets the individual's needs. Such housing may include mental health residential treatment facilities, limited mental health assisted living facilities, adult family care homes, and supportive housing. Housing provided using state funds must provide a safe and decent environment free from abuse and neglect.

(m) Care plans shall assign specific responsibility for initial and ongoing evaluation of the supervision and support needs of the individual and the identification of housing that meets such needs. For purposes of this paragraph, the term "supervision" means oversight of and assistance with compliance

with the clinical aspects of an individual's care plan.

(n) First episode psychosis programs.

(3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific appropriation by the Legislature, the department may award system improvement grants to managing entities based on a detailed plan to enhance services in accordance with the no-wrong-door model as defined in subsection (1) and to address specific needs identified in the assessment prepared by the department pursuant to this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements.

Section 6. Subsection (3) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(3) NOTICE OF RELEASE.—Notice of the release shall be given to the patient's guardian or representative, to any person who executed a certificate admitting the patient to the receiving facility, and to any court which ordered the patient's evaluation. If the patient is a minor, information regarding the availability of a local mobile response service, suicide prevention resources, social supports, and local self-help groups must also be provided to the patient's guardian or representative along with the notice of the release.

Section 7. Section 456.0342, Florida Statutes, is created to read:

456.0342 Required instruction on suicide prevention.—The requirements of this section apply to each person licensed or certified under chapter 458, chapter 459, or part I of chapter

464.

(1) By January 1, 2022, each licensed or certified practitioner shall complete a board-approved 2-hour continuing education course on suicide prevention. The course must address suicide risk assessment, treatment, and management.

(2) Each licensing board that requires a licensee or certificate holder to complete a course pursuant to this section must include the hours required for completion in the total hours of continuing education required by law for such profession.

Section 8. Effective January 1, 2021, paragraph (b) of subsection (8) of section 627.6675, Florida Statutes, is amended to read:

627.6675 Conversion on termination of eligibility.—Subject to all of the provisions of this section, a group policy delivered or issued for delivery in this state by an insurer or nonprofit health care services plan that provides, on an expense-incurred basis, hospital, surgical, or major medical expense insurance, or any combination of these coverages, shall provide that an employee or member whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy, and under any group policy providing similar benefits that the terminated group policy replaced, for at least 3 months immediately prior to termination, shall be entitled to have issued to him or her by the insurer a policy or certificate of health insurance, referred to in this section as a "converted policy." A group

insurer may meet the requirements of this section by contracting with another insurer, authorized in this state, to issue an individual converted policy, which policy has been approved by the office under s. 627.410. An employee or member shall not be entitled to a converted policy if termination of his or her insurance under the group policy occurred because he or she failed to pay any required contribution, or because any discontinued group coverage was replaced by similar group coverage within 31 days after discontinuance.

(8) BENEFITS OFFERED.—

(b) An insurer shall offer the benefits specified in s. 627.4193 ~~s. 627.668 and the benefits specified in s. 627.669 if those benefits were provided in the group plan~~.

Section 9. Effective January 1, 2021, section 627.668, Florida Statutes, is transferred, renumbered as section 627.4193, Florida Statutes, and amended to read:

627.4193 ~~627.668~~ Requirements for mental health and substance use disorder benefits; reporting requirements ~~Optional coverage for mental and nervous disorders required; exception~~.—

(1) Every insurer issuing, delivering, or issuing for delivery comprehensive major medical individual or~~, health maintenance organization, and nonprofit hospital and medical service plan corporation transacting~~ group health insurance policies ~~or providing prepaid health care~~ in this state must comply with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and any regulations relating to MHPAEA, including, but not limited to, 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a)(3); and must provide ~~shall make available to the~~

~~policyholder as part of the application, for an appropriate additional premium under a group hospital and medical expense-incurred insurance policy, under a group prepaid health care contract, and under a group hospital and medical service plan contract,~~ the benefits or level of benefits specified in subsection (2) for the medically necessary care and treatment of mental and nervous disorders, including substance use disorders, as described ~~defined~~ in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by ~~standard nomenclature of~~ the American Psychiatric Association~~, subject to the right of the applicant for a group policy or contract to select any alternative benefits or level of benefits as may be offered by the insurer, health maintenance organization, or service plan corporation provided that, if alternate inpatient, outpatient, or partial hospitalization benefits are selected, such benefits shall not be less than the level of benefits required under paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c), respectively~~.

(2) Under individual or group policies described in subsection (1) ~~or contracts~~, inpatient hospital benefits, partial hospitalization benefits, and outpatient benefits consisting of durational limits, dollar amounts, deductibles, and coinsurance factors may not be provided in a manner that is more restrictive than medical and surgical benefits, and limits on the scope or duration of treatments which are not expressed numerically, also known as nonquantitative treatment limitations, must be provided in a manner that is comparable and may not be applied more stringently than limits on medical and surgical benefits, in accordance with 45 C.F.R. s.

146.136(c)(2), (3), and (4) ~~shall not be less favorable than for physical illness generally, except that:~~

~~(a) Inpatient benefits may be limited to not less than 30 days per benefit year as defined in the policy or contract. If inpatient hospital benefits are provided beyond 30 days per benefit year, the durational limits, dollar amounts, and coinsurance factors thereto need not be the same as applicable to physical illness generally.~~

~~(b) Outpatient benefits may be limited to $1,000 for consultations with a licensed physician, a psychologist licensed pursuant to chapter 490, a mental health counselor licensed pursuant to chapter 491, a marriage and family therapist licensed pursuant to chapter 491, and a clinical social worker licensed pursuant to chapter 491. If benefits are provided beyond the $1,000 per benefit year, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as applicable to physical illness generally.~~

~~(c) Partial hospitalization benefits shall be provided under the direction of a licensed physician. For purposes of this part, the term "partial hospitalization services" is defined as those services offered by a program that is accredited by an accrediting organization whose standards incorporate comparable regulations required by this state. Alcohol rehabilitation programs accredited by an accrediting organization whose standards incorporate comparable regulations required by this state or approved by the state and licensed drug abuse rehabilitation programs shall also be qualified providers under this section. In a given benefit year, if partial hospitalization services or a combination of inpatient~~

~~and partial hospitalization are used, the total benefits paid for all such services may not exceed the cost of 30 days after inpatient hospitalization for psychiatric services, including physician fees, which prevail in the community in which the partial hospitalization services are rendered. If partial hospitalization services benefits are provided beyond the limits set forth in this paragraph, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as those applicable to physical illness generally~~.

(3) Insurers must maintain strict confidentiality regarding psychiatric and psychotherapeutic records submitted to an insurer for the purpose of reviewing a claim for benefits payable under this section. These records submitted to an insurer are subject to the limitations of s. 456.057, relating to the furnishing of patient records.

(4) Every insurer shall submit an annual affidavit attesting to compliance with the applicable provisions of the MHPAEA.

(5) The office shall implement and enforce applicable provisions of MHPAEA and federal guidance or regulations relating to MHPAEA, including, but not limited to, 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a)(3), and this section.

(6) The Financial Services Commission may adopt rules to implement this section.

Section 10. Subsection (4) is added to section 627.669, Florida Statutes, to read:

627.669 Optional coverage required for substance abuse impaired persons; exception.—

(4) This section is repealed January 1, 2021.

Section 11. Effective January 1, 2021, present subsection (17) of section 627.6699, Florida Statutes, is redesignated as subsection (18), and a new subsection (17) is added to that section, to read:

627.6699 Employee Health Care Access Act.—

(17) MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS.—A health benefit plan that provides coverage to employees of a small employer is subject to s. 627.4193.

Section 12. Effective January 1, 2021, subsection (9) is added to section 641.26, Florida Statutes, to read:

641.26 Annual and quarterly reports.—

(9) Every health maintenance organization issuing, delivering, or issuing for delivery contracts providing comprehensive major medical coverage shall annually submit an affidavit to the office attesting to compliance with the requirements of s. 627.4193. The office may adopt rules to implement this subsection.

Section 13. Effective January 1, 2021, subsection (48) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(48) All health maintenance contracts that provide comprehensive medical coverage must comply with the coverage provisions of s. 627.4193. The commission may adopt rules to implement this subsection.

Section 14. Section 786.1516, Florida Statutes, is created to read:

786.1516 Immunity for providing assistance in a suicide emergency.—

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

(a) "Emergency care" means assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of a suicide emergency.

(b) "Suicide emergency" means an occurrence that reasonably indicates an individual is at risk of dying or attempting to die by suicide.

(2) A person who provides emergency care at or near the scene of a suicide emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person providing the emergency care unless the person is grossly negligent or caused the suicide emergency.

Section 15. Present subsection (28) of section 1002.33, Florida Statutes, is redesignated as subsection (29), and a new subsection (28) is added to that section, to read:

1002.33 Charter schools.—

(28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH SUICIDE AWARENESS AND PREVENTION.—

(a) By October 1, 2020, every charter school must:

1. Incorporate 2 hours of training offered pursuant to s. 1012.583. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. Every charter school must require all instructional personnel to participate.

2. Have at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under s. 1012.583(1) and have a policy to

use such suicide risk screening instrument to evaluate a student's suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student's suicide risk.

(b) Every charter school must report its compliance with this subsection to the department.

Section 16. Subsections (2) and (3) of section 1012.583, Florida Statutes, are amended to read:

1012.583 Continuing education and inservice training for youth suicide awareness and prevention.—

(2) By October 1, 2020, every public school must ~~A school shall be considered a "Suicide Prevention Certified School" if it~~:

(a) Incorporate ~~Incorporates~~ 2 hours of training offered pursuant to this section. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. Every public school ~~A school that chooses to participate in the training~~ must require all instructional personnel to participate.

(b) Have ~~Has~~ at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under subsection (1) and have ~~has~~ a policy to use such suicide risk screening instrument to evaluate a student's suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student's suicide risk.

(3) Every public school ~~A school that meets the criteria in subsection (2)~~ must report its compliance with this section to

the department. ~~The department shall keep an updated record of all Suicide Prevention Certified Schools and shall post the list of these schools on the department's website. Each school shall also post on its own website whether it is a Suicide Prevention Certified School, and each school district shall post on its district website a list of the Suicide Prevention Certified Schools in that district.~~

Section 17. Paragraphs (a) and (c) of subsection (3) of section 394.495, Florida Statutes, are amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

(c) A person who is under the direct supervision of a qualified professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under chapter 491.

Section 18. Subsection (5) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

(5) A professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under chapter 491 must be included among those persons developing the services plan.

Section 19. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification

services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(26)(a)4., 397.311(26)(a)1., and 394.455(40) ~~394.455(39)~~, respectively.

Section 20. Paragraph (b) of subsection (1) of section 409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

(1) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:

(b) Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice or a treatment facility as defined in s. 394.455~~(47)~~.

Section 21. Paragraph (e) of subsection (4) of section 464.012, Florida Statutes, is amended to read:

464.012 Licensure of advanced practice registered nurses; fees; controlled substance prescribing.—

(4) In addition to the general functions specified in subsection (3), an advanced practice registered nurse may perform the following acts within his or her specialty:

(e) A psychiatric nurse, who meets the requirements in s. 394.455(36) ~~s. 394.455(35)~~, within the framework of an established protocol with a psychiatrist, may prescribe psychotropic controlled substances for the treatment of mental disorders.

Section 22. Subsection (7) of section 744.2007, Florida Statutes, is amended to read:

744.2007 Powers and duties.—

(7) A public guardian may not commit a ward to a treatment facility, as defined in s. 394.455~~(47)~~, without an involuntary placement proceeding as provided by law.

Section 23. The Office of Program Policy Analysis and Government Accountability shall perform a review of suicide prevention programs and efforts made by other states and make recommendations on their applicability to this state. The office shall submit a report containing the findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by January 1, 2021.

Section 24. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human Services
Health Policy
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR LAUREN BOOK
32nd District

February 14, 2020

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

Chair Bradley:

I respectfully request that **SB 7012—Mental Health** be placed on the agenda for the next Committee on Appropriations meeting.

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

Thank you,

Senator Lauren Book
Senate District 32

Cc: Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:
❒ 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
❒ 202 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

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)

Feb 20, 2020
Meeting Date

7012
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Mental Health

Name Ken "cop-CHEN-ski" Kopczynski

Job Title Lobbyist

Address 300 East Brevard Street
Street

Talla FL 32301
City *State* *Zip*

Phone 222-3329

Email ken@flpba.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PBA 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:	SB 7020
INTRODUCER:	Infrastructure and Security Committee
SUBJECT:	Emergency Staging Areas
DATE:	February 19, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Miller	IS	**IS Submitted as Committee Bill**
1.	McAuliffe	Hrdlicka	ATD	**Recommend: Favorable**
2.	McAuliffe	Kynoch	AP	**Favorable**

I. Summary:

SB 7020 authorizes the Florida Department of Transportation (FDOT) to plan, design, and construct staging areas for emergency response on the turnpike system. These areas are for the staging of emergency supplies, equipment, and personnel to facilitate the prompt provision of emergency assistance to the public in response to a declared state of emergency.

The bill directs the FDOT, in consultation with the Division of Emergency Management (DEM), to consider certain factors when selecting a proposed site, and the FDOT is authorized to acquire property necessary for such staging areas. The bill requires the FDOT to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less in which a multi-use corridor of regional significance is located.

The bill grants the FDOT power to authorize other uses of a staging area and requires that staging-area projects be included in the FDOT's work program.

The fiscal impact of this bill is indeterminate. The FDOT must first exercise the authority granted in this bill and select a site or sites, in consultation with DEM, and estimate the costs to plan, design, and construct the staging areas. These costs are unknown at this time. Increased availability of staging areas along the turnpike system may offset future costs.

The bill takes effect July 1, 2020.

I. Present Situation:

Emergency Declaration and Staging Areas

Chapter 252, F.S., confers certain emergency powers upon the Governor, the DEM, and the governing bodies of each political subdivision of the state when an emergency or disaster occurs

in Florida.[1] Section 252.36(2), F.S., authorizes the Governor to declare a state of emergency by executive order or proclamation if the Governor finds an emergency or the threat of an emergency has occurred or is about to occur.[2] The Governor's order or proclamation, among other items:

- Activates the emergency mitigation, response, and recovery aspects of the applicable state, local, and inter-jurisdictional emergency management plans, and
- Activates plans and resources to carry out the distribution of any supplies, equipment, and materials, and facilities relating to emergencies.

Section 252.359, F.S., charges DEM with establishing "a statewide system to facilitate the transportation and distribution of essentials in commerce"…"to meet the needs of residents affected during a declared emergency and to ensure continuing economic resilience of communities impacted by disaster."[3] Similarly, among other related authority, political subdivisions are authorized to obtain and distribute equipment, materials, and supplies for emergency management purposes.[4]

Generally, when the Governor declares a state of emergency, the acquisition of property for staging area purposes involves similar processes at both the state and local level – identification of a potential site and execution of an agreement for use of the site. For example, DEM logistics personnel work with regional coordination teams and other DEM field staff to identify potential staging area sites suitable for the expected emergency. For purposes of executing a memorandum of agreement (MOU), the DEM requires the site location and owner, a point of contact, the square footage of the site, and photos or maps of the site. Locations are finalized after a site visit with the site owner to verify the site's feasibility for use. If agreement is reached, an MOU is executed. The acquired sites are mobilized to ensure resources are logged, prepared, and readied for redeployment to an impacted area.[5]

Pre-designated sites are also used for staging. For example, the FDOT allows utility providers and first responders to use commercial motor vehicle weigh stations as staging areas, most of which are along I-75. The FDOT also uses its maintenance yards and operations centers to stage FDOT crews and contracted crews.[6, 7]

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[1] Section 252.32(1)(b), F.S.
[2] The law provides that the state of emergency continues until the Governor finds the emergency conditions no longer exist and terminates the state of emergency. However, a state of emergency may not exist for more than 60 days unless the Governor renews it. The Legislature may terminate a state of emergency at any time by concurrent resolution.
[3] Section 252.359, F.S., defines the term, "essentials," to mean goods that are consumed or used as a direct result of a declared emergency, or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.
[4] Section 252.38(3), F.S.
[5] *See* DEM email to Senate Infrastructure and Security Committee staff November 14, 2019 (copy on file in the Senate Infrastructure and Security Committee).
[6] *See* the FDOT email to Senate Infrastructure and Security Committee staff November 18, 2019 (copy on file in the Senate Infrastructure and Security Committee).
[7] For a map of the FDOT's maintenance yards and operations centers, *see* FDOT, *Transportation Organizational Partners Map*, select Legend icon, bottom left, available at https://fdot.maps.arcgis.com/apps/webappviewer/index.html?id=659db618c58d4a279bc95386ab20fe30 (last visited January 10, 2020).

At the local level, both pre-designated sites and sites identified in anticipation of need may be used. For example, Leon County Emergency Management staff advise that both the county and the City of Tallahassee have regularly used public property (such as the fairgrounds and the airport), as well as private property for staging areas.[8]

Florida's Turnpike

The Florida Turnpike Enterprise (FTE) within the FDOT is empowered to plan, construct, maintain, repair, and operate the Florida Turnpike System. The term, "turnpike system," is defined to mean "those limited access toll highways and associated feeder roads and other structures, appurtenances, or rights previously designated, acquired, or constructed pursuant to the Florida Turnpike Enterprise Law and such other additional turnpike projects as may be acquired or constructed as approved by the Legislature."[9] 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.[10]

In addition, any future multi-use corridor of regional significance (M-CORES corridor) constructed as authorized under s. 338.2278, F.S., will be part of the turnpike system. Enacted during the 2019 Regular Session, M-CORES is a program 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 following three corridors comprise the M-CORES Program:

- Southwest-Central Florida Connector (Collier County to Polk County);
- Suncoast Connector (Citrus County to Jefferson County); and
- Northern Turnpike Connector (northern terminus of the Florida Turnpike northwest to the Suncoast Parkway).[11]

FDOT Acquisition of Property

Section 338.04, F.S., grants the FDOT's FTE (and others, collectively called "authorities") authorization to acquire private or public property and property rights for limited access facilities and service roads in the same manner as they are authorized to acquire property or property rights for highways. That process involves negotiated sales or, failing successful negotiation, the power of eminent domain granted to the FDOT under s. 337.27, F.S.

[8] Telephone conversation between Senate Infrastructure and Security Committee staff and Leon County Emergency Management staff November 12, 2019.
[9] Section 338.221(6), F.S.
[10] For a map of the system, *see* Florida's Turnpike, under the *About* heading, available at http://www.floridasturnpike.com/about.html (last visited January 10, 2020).
[11] For additional detailed M-CORES information, *see* the FDOT M-CORES site, available at https://floridamcores.com/#home (last visited January 10, 2020).

Eminent domain is the constitutional power of the government to take private property for public use. Chapters 73 and 74, F.S., provide for eminent domain and proceedings supplemental to eminent domain, respectively. Chapter 73, F.S., specifies the pre-suit negotiation requirements, the petition filing requirements, the service of process and publication requirements, the pretrial process, jury trial process, and post-trial process. Chapter 74, F.S., sets out the supplemental proceedings to eminent domain, including provisions allowing a governmental entity to take possession and title of property in advance of entry of final judgment by depositing with the court an amount no less than the governmental entity's good faith estimate of the value of the property being sought.

Before an eminent domain proceeding can be filed, the FDOT must attempt to negotiate in good faith with the fee owner of the property to be acquired and attempt to reach an agreement regarding the amount of compensation to be paid for the owner's property.[12] The condemning authority must meet additional requirements, such as providing the owner with a written offer, notifying the owner of statutory rights to receive fees and costs,[13] and notifying business owners of all of their rights.[14] Once a petition for eminent domain is filed, both the FDOT and the owner must make offers of judgment; *i.e.*, an offer to have judgment entered for payment of compensation for amounts specified in the offers.

In accordance with s. 73.071, F.S., eminent domain trials for valuation of property are argued before a twelve-person jury. The amount of compensation is determined as of the date of trial, or the date upon which title passes, whichever occurs first. The jury determines solely the amount of compensation to be paid. Generally, whether the parties settle prior to or after a petition is filed, the landowners and business owners are entitled to attorney fees[15] and reasonable costs incurred, including appraisal fees and accountant fees.[16]

The Florida Transportation Code

The Florida Transportation Code (code)[17] includes all Florida Statutes governing the duties and responsibilities for the FDOT. The code authorizes FDOT to provide space to facilitate the conduct of research and demonstration projects relative to innovative transportation technologies[18] or serve as staging areas for the FDOT's construction and maintenance contractors.[19] The sites may provide additional or overflow parking for both commercial motor vehicles and other vehicular traffic[20] or serve other functions, such as making fuel or food services available to travelers.[21]

[12] Section 73.015, F.S.
[13] Section 73.0511, F.S.
[14] Section 73.015(2), F.S.
[15] Section 73.092, F.S.
[16] Section 73.091, F.S.
[17] Chapters 334-339, 348, and 349 and ss. 332.003-332.007, 351.35, 351.36 351.37, and 861.011, F.S.
[18] Section 334.044(21), F.S.
[19] Section 337.11(1), F.S.
[20] *Id*.
[21] Section 338.234, F.S.

II. Effect of Proposed Changes:

The bill authorizes the FDOT to plan, design, and construct staging areas for emergency response as part of the turnpike system. The sites are intended to be designated areas for the staging of emergency supplies, equipment, and personnel to facilitate the prompt provision of emergency assistance to the public in response to a declared state of emergency. The bill provides that emergency supplies, such as water, fuel, generators, vehicles, equipment, and other related materials, staged at key geographic points will aide in emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

In selecting a proposed site, the bill directs the FDOT, in consultation with the DEM, to consider the extent to which a proposed site for a staging area:

- Is located in a geographic area that best facilitates wide dissemination of emergency-related supplies and equipment;
- Provides ease of access to major highways and other transportation facilities;
- Is sufficiently large to accommodate staging of a significant amount of emergency-related supplies and equipment;
- Provides space in support of emergency preparedness and evacuation activities, such as fuel reserve capacity;
- Could be used during non-emergency periods for commercial motor vehicle parking or other uses; and
- Is consistent with other state and local emergency management considerations.

The FDOT must give priority consideration to placement of emergency staging areas in counties with a population of 200,000 or less in which an M-CORES corridor is located.[22]

The bill authorizes the FDOT to acquire property and property rights necessary for such staging areas as provided in s. 338.04, F.S., through negotiated sales or the eminent domain process. The FDOT is also granted the power to authorize other uses of a staging area, as provided in the Florida Transportation Code, including, but not limited to, commercial motor vehicle parking to comply with federal hours of service off-duty and sleeper berth requirements and for other vehicular parking to provide rest for drivers.

Lastly, the bill requires that staging area projects be included in the FDOT's work program.[23]

The increased availability of staging areas may elevate the efficiency of response to emergencies in this state, thereby facilitating faster recovery from such emergencies for both the public and private sectors, including, but not limited to, quicker resumption of market activity, such as tourism. Authorization for other appropriate uses of the proposed staging areas during non-emergency periods may result in other economic efficiencies.

[22] The county population is as determined by the most recent official state estimate pursuant to s. 186.901, F.S.
[23] The FDOT's work program is developed pursuant to s. 339.175, F.S. FDOT is responsible for developing a five-year plan of transportation projects in partnership with other entities such as communities, metropolitan planning organizations, local governments, other state and federal agencies, modal partners, and regional entities.

The bill takes effect July 1, 2020.

III. 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.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Increased availability of staging areas on the turnpike system may provide the general public with earlier provision of essential emergency supplies during emergencies and may provide additional benefits, such as increased availability of parking on the turnpike system, during non-emergency periods. The business community may experience a positive impact in that more efficient emergency response may allow for a faster return to normal market activity. The FDOT's maintenance and construction contractors may benefit from increased availability of staging areas during non-emergency periods.

C. Government Sector Impact:

The fiscal impact of this bill is indeterminate. The FDOT must first exercise the authority granted in this bill and select a site or sites, in consultation with DEM, and estimate the costs to plan, design, and construct the staging areas. These costs are unknown at this time. However, having such staging areas in place may reduce costs associated with providing necessary staging areas for emergency response purposes, for both state and local governments, and may reduce costs incurred by the FDOT for the provision of other uses authorized by the bill during non-emergency periods of time.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill creates section 338.236 of the Florida Statutes.

VIII. Additional Information:

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

None.

B. Amendments:

None.

By the Committee on Infrastructure and Security

596-02013-20 20207020__

A bill to be entitled

An act relating to emergency staging areas; creating s. 338.236, F.S.; authorizing the Department of Transportation to plan, design, and construct staging areas as part of the turnpike system for the intended purpose of staging supplies for prompt provision of assistance to the public in a declared state of emergency; requiring the department, in consultation with the Division of Emergency Management, to select sites for such areas; providing factors to be considered by the department and division in selecting sites; requiring the department to give priority consideration to placement of such staging areas in specified counties; authorizing the department to acquire property necessary for such staging areas; authorizing the department to authorize certain other uses of staging areas; requiring staging area projects to be included in the department's work program; providing an effective date.

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

Section 1. Section 338.236, Florida Statutes, is created to read:

338.236 Staging areas for emergencies.—The Department of Transportation may plan, design, and construct staging areas to be activated during a declared state of emergency at key geographic locations on the turnpike system. Such staging areas must be used for the staging of emergency supplies, such as

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water, fuel, generators, vehicles, equipment, and other related materials, to facilitate the prompt provision of emergency assistance to the public, and to otherwise facilitate emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

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

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

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

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

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

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

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

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

located.

(2) The department may acquire property and property rights necessary for such staging areas as provided in s. 338.04.

(3) The department may authorize other uses of a staging area as provided in the Florida Transportation Code, including, but not limited to, for commercial motor vehicle parking to comply with federal hours-of-service off-duty requirements or sleeper berth requirements and for other vehicular parking to provide rest for drivers.

(4) Staging area projects must be included in the work program developed by the department pursuant to s. 339.135.

Section 2. This act shall take effect July 1, 2020.

The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Appropriations Committee

Subject: Committee Agenda Request

Date: January 29, 2020

I respectfully request that **Senate Bill #7020**, relating to Emergency Staging Areas, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Tom Lee

Senator Tom Lee
Florida Senate, District 20

File signed original with committee office

S-020 (03/2004)

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; Infrastructure and Security Committee; Education Committee; and Senator Diaz
SUBJECT:	Implementation of the Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission
DATE:	February 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Brick, Dew, Bouck, Sagues	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 7040 provides additional safeguards for Florida's students and schools by building upon the school safety and security foundation established in the Marjory Stoneman Douglas High School Public Safety Act and the recommendations of the Marjory Stoneman Douglas High School Public Safety Commission (commission). The bill:

- Improves school safety planning and reporting to require:
  - Each district school board to adopt a school district emergency event family reunification plan to reunite students and employees with their families in the event of an emergency.
  - Comprehensive participation from all members of a school threat assessment team.
  - Law enforcement officers responsible for responding to the school in the event of an emergency to be on campus and directly involved in the execution of emergency drills.
  - Alignment of school-based diversion programs with local judicial circuit diversion programs.
  - Each district school board to adopt policies to ensure the accurate and timely reporting of all school safety and discipline incidents.
  - The Office of Safe Schools (OSS) include in school safety specialist training information about federal and state reporting and data privacy laws.
- Enhances the safe school officer position and the role of the county sheriff by:
  - Requiring school safety officers to complete mental health crisis intervention training.

  - Expanding the power of school safety officers to make arrests on property owned or leased by a charter school in the district.
  - Making the sheriff responsible for the provision of Feis guardian training and clarifying the training requirements applicable to such training.
- Strengthens school mental health coordination and implementation and requires:
  - A workgroup to provide guidance on the implementation of mental health-related recommendations of the commission.
  - Additional reporting requirements for the mental health assistance allocation.
  - Individualized Education Plans to include additional provisions related to post-high school transition.
- Strengthens school safety oversight and accountability by directing the:
  - Commissioner of Education to enforce compliance with all school safety requirements.
  - OSS to coordinate compliance with school safety incident reporting.
  - FortifyFL reporting tool to notify users of consequences for false reporting.
- Expands representation on the commission to include superintendents, principals, or teachers.

The Department of Education estimates that it will need an additional $897,644 to implement provisions of the bill related to OSS and the Independent Education and Parental Choice office. In addition, there may be an indeterminate cost to local law enforcement, local school districts, state attorney offices, the Louis de la Parte Florida Mental Health Institute, charter schools, and the Department of Juvenile Justice to implement other provisions of the bill. 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:

School Safety Planning and Reporting

Present Situation

Safety Incident Reporting

Each district school board is required to adopt policies to ensure the accurate and timely reporting of incidents related to school safety and discipline.[1] The School Environmental Safety Incident Reporting (SESIR) system collects data on incidents related to school safety and discipline that occur on school grounds, school transportation, and off-campus, school-sponsored events.[2] The State Board of Education (SBE or state board) is required to adopt rules establishing the requirements for the SESIR.[3]

[1] Section 1006.07(9), F.S.
[2] FSU Center of Criminology and Florida 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 January 29, 2020).
[3] *Supra*, note 1.

The law requires each school principal to ensure that standardized forms prescribed by SBE rule are used to report data concerning school safety and discipline to the Department of Education (DOE).[4] The DOE may notify a district school board to withhold the salary of a district school superintendent who has failed to comply with SESIR reporting requirements and impose other appropriate sanctions that the Commissioner of Education (commissioner) or state board may impose.[5] A district school board member who is responsible for a violation of the reporting or sanctions requirements applicable to a superintendent is subject to suspension and removal.[6]

District school boards are required to promote a safe and supportive learning environment in schools. In this regard, district school boards are required to adopt policies prohibiting crime and victimization, hazing, bullying and harassment, and dating violence and abuse.[7] School board policies prohibiting bullying and harassment must include procedures for tracking data and reporting incidents to the DOE, which prepares an annual report on bullying and harassment policies to the Governor, the President of the Senate (President), and the Speaker of the House of Representatives (Speaker).[8]

School Emergency Response Policies and Procedures

District school boards must formulate and prescribe policies and procedures for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, active shooter and hostage situations, and bomb threats, for all students and faculty at all district K-12 public schools.[9]

Drills for active shooter and hostage situations must be conducted in accordance with developmentally appropriate and age-appropriate procedures at least as often as other emergency drills. District school board policies must establish model emergency management and emergency preparedness procedures, including emergency notification procedures.[10]

The Florida Safe Schools Assessment Tool (FSSAT) is required to 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 identify threats, vulnerabilities and appropriate safety controls for the schools that they supervise. The FSSAT is required to address certain components of school safety, such as school emergency and crisis preparedness planning.[11]

Threat Assessment Teams

Each district school board must adopt policies for the establishment of threat assessment teams (TATs) at each school. The purpose of TATs is to coordinate resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students. Each TAT must include persons with expertise in counseling, instruction, school

[4] Section 1006.09(6), F.S.
[5] Section 1001.212(8), F.S.
[6] Section 1001.42(13)(b), F.S.
[7] Sections 1006.13, 1006.135, 1006.147, and 1006.148, F.S.
[8] Section 1006.147, F.S.
[9] Section 1006.07(4), F.S.
[10] *Id.*
[11] Section 1006.1493, F.S.

administration, and law enforcement.[12] The Office of Safe Schools (OSS) developed the Comprehensive School Threat Assessment Guidelines (CSTAG) [13] for use as a Behavioral Threat Assessment Instrument to assist TATs in the threat assessment process. The law provides specific requirements for the CSTAG, including that the CSTAG address training for TATs and school administrators.[14]

Mobile Suspicious Activity Reporting Tool (FortifyFL)

FortifyFL, the mobile suspicious activity reporting tool, is a computer and mobile phone application free to all public and private schools in Florida. District and school-level administrators receive and must respond to tips from FortifyFL. Any tips submitted through FortifyFL are sent to local school, district and law enforcement officials, and the designated officials are contacted until one or more of them take responsibility for taking action on the tip.[15]

The identity of the reporting party received through the mobile suspicious activity reporting tool is confidential and exempt from public records disclosure requirements. Information received through the mobile suspicious activity reporting tool is also exempt.[16]

Juvenile Diversion Programs

Juvenile diversion programs (diversion programs) are alternatives to juvenile arrest. A juvenile arrest may be diverted based on comprehensive knowledge of the juvenile's criminal history, prior contacts with law enforcement, and prior program enrollment.[17] Florida law directs that a civil citation or similar pre-arrest diversion program for misdemeanor offenses be established in each judicial circuit in the state.[18]

Compliance with the community-based diversion programs includes all reporting requirements, specifically that criminal diversions be entered into Juvenile Justice Information System (JJIS) Prevention Web.[19] School districts may still operate their own "diversion programs" that address non-criminal conduct, such as Student Code of Conduct violations and other misbehavior.[20]

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[12] Section 1006.07(7), F.S.
[13] Comprehensive School Threat Assessment Guidelines. Florida Department of Education, *Memo to School District Superintendents and Charter School Administrators Regarding the Standardized Behavioral Threat Assessment Instrument* (Aug. 1, 2019), available at https://info.fldoe.org/docushare/dsweb/Get/Document-8617/DPS-2019-116.pdf (last visited January 29, 2020).
[14] Section 1001.212(12)(a)6., F.S.
[15] 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 January 29, 2020).
[16] Section 943.082(6), F.S.
[17] Marjory Stoneman Douglas High School Public Safety Commission (Commission), *Report Submitted to the Governor, Speaker of the House of Representatives and Senate President* (Nov. 1, 2019), *available at* http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf. at 131 (last visited January 29, 2020).
[18] Section 985.12, F.S.
[19] *Id*.
[20] Commission, *supra* note 17, at 133.

Currently, 58 school districts do not offer any form of school-based diversion program.[21] Seven school districts participate in the civil citation or similar prearrest diversion program of the local judicial circuit, and three school districts operate school-based diversion programs.[22]

Effect of Proposed Changes

Safety Incident Reporting

The bill modifies s. 1006.07(9), F.S., to clarify that a district school board's duty to adopt policies to ensure the reporting of incidents related to school safety and discipline includes the reporting of incidents related to SESIR, zero tolerance for crime and victimization, hazing, bullying and harassment, and dating violence and abuse. The bill also modifies s. 1006.09, F.S., to clarify that school principals must ensure that incidents concerning school safety and discipline are reported to the DOE through the SESIR system.

The bill clarifies the enforcement authority for school district and charter school reporting requirements under the SESIR system to specify that, upon notification by the commissioner, the district school board or charter school governing board must withhold the salary of a superintendent or charter school administrator for failure to comply with such requirements, based on clear and convincing evidence, pending demonstration of full compliance.

The bill authorizes the SBE to adopt rules establishing the requirements for all school safety incident reporting.

This clarification may improve school safety incident reporting by school districts and charter schools.

Emergency Drills

The bill modifies s. 1006.07, F.S., to require sheriffs to coordinate with the district school safety specialist to determine the necessary law enforcement officers responsible for responding to a school in the event of an active assailant emergency, and requires the designated law enforcement officers to be physically present on campus and directly involved in the execution of active assailant drills.

The bill authorizes school board policies to provide accommodations for drills conducted by Exceptional Student Education centers.

Emergency Event Family Reunification

The bill modifies s. 1006.07, F.S., to require district school boards and charter school governing boards to, by August 1, 2021, adopt an emergency event family reunification plan for the purpose of reuniting students and employees with their families in the event of a mass casualty or

[21] Florida Department of Juvenile Justice, *Statewide Audit of School-Based Diversion Programs* (July 1, 2019), *available at* http://www.fdle.state.fl.us/MSDHS/Meetings/2019/August/August-14-1015am-Report-on-Statewide-Assessment-DJ.aspx, at 21-23 (last visited January 29, 2020).

[22] *Id.* The information that is required to be entered into JJIS Prevention Web varies among school districts who participate in the local judicial circuit diversion programs. Sarasota County School District participates in the local judicial circuit diversion program but also appears to operate a school-based diversion program.

other emergency event situation. The bill requires the adoption of the emergency event family reunification plans to be coordinated with local law enforcement agencies.

The bill modifies s. 1001.212, F.S., to require the OSS develop, in coordination with the Division of Emergency Management and other federal, state, and local law enforcement agencies and first-responder agencies, a model emergency event family reunification plan for use by child care facilities, public K-12 schools, and public postsecondary institutions that are closed or unexpectedly evacuated due to natural or man-made disasters or emergencies.

The bill amends s. 1006.1493, F.S., to require the FSSAT to address policies and procedures to prepare for and respond to natural or manmade disasters or emergencies, including plans to reunite students and employees with families after a school is closed or unexpectedly evacuated due to such disasters or emergencies.

Threat Assessment Teams

The bill modifies s. 1006.07, F.S., relating to TATs. Specifically, the bill:

- Clarifies that the law enforcement presence on a threat assessment team must include a sworn law enforcement officer who has undergone threat assessment training identified by the OSS.
- Requires that all members of the TAT be involved in the threat assessment process from start to finish, including the determination of the final disposition decision.

These changes may ensure that all members of the TAT are active participants in the entire threat assessment process.

Mobile Suspicious Activity Reporting Tool (FortifyFL)

The bill modifies s. 943.082, F.S., effective October 1, 2020, to require notification to parties reporting through FortifyFL that if, following investigation, it is determined that a person knowingly submitted a false tip through FortifyFL, the IP address of the device on which the tip was submitted will be provided to law enforcement agencies and the reporting party may be subject to criminal penalties for a false report. In all other circumstances, unless the reporting party has chosen to disclose his or her identity, the report must remain anonymous.

Juvenile Diversion Programs

The bill modifies ss. 985.12 and 1002.421, F.S., to require the Department of Juvenile Justice (DJJ) and the state attorney of each judicial circuit to monitor and enforce compliance with school-based diversion program requirements. School-based diversion programs must:

- Operate consistently with criteria established by the state attorney in the judicial circuit in which the school is located.
- Be defined in school policy and the code of conduct.
- Be approved by the district school board, charter school governing board, or private school governing authority, as applicable.

The bill requires the OSS to maintain a current directory of public and private school-based diversion programs and cooperate with each judicial circuit and the DJJ, which are responsible

for facilitating compliance with the law. The bill requires, beginning in fiscal year 2021-2022, law enforcement officers to have field access to civil citation and prearrest diversion information.

These changes may ensure all school-based diversion programs meet established requirements for prearrest diversion programs. This may improve the quality and accountability of such diversion programs.

Safe School Officers

Present Situation

Safe School Officer Requirement

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 and charter schools.[23] These options include:

- Establishing a school resource officer (SRO) program, through a cooperative agreement with law enforcement agencies. SROs are certified law enforcement officers[24] who must meet specified screening requirements[25] and also complete mental health crisis intervention training.
- Commissioning one or more school safety officers. School safety officers are certified law enforcement officers with the power of arrest on district school property, who are employed by either a law enforcement agency or by the district school board. School safety officers must undergo the same screening requirements as an SRO.
- Participating in the Coach Aaron Feis Guardian Program (guardian program).
- Contracting with a security agency[26] to employ as a school security guard an individual who holds a Class "D" and Class "G" license[27] and completes the same training and evaluation requirements as a school guardian.

If a district school board, through its adopted policies, procedures, or actions, denies a charter school access to any safe-school officer options, the school district must assign a school resource officer or sworn law enforcement school safety officer to the charter school. Under such circumstances, the charter school's share of the costs of the sworn law enforcement school resource officer or sworn law enforcement school safety officer may not exceed the safe school allocation funds provided to the charter school and shall be retained by the school district.

[23] Section 1006.12, F.S.
[24] "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. Section 943.10(1), F.S.
[25] SROs must undergo criminal background checks, drug testing, and a psychological evaluation. Section 1006.12(1)(a), F.S.
[26] "Security agency" means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners. This includes any person who utilizes dogs and individuals to provide security services. Section 493.6101(18), F.S.
[27] License requirements are specified in chapter 493.

Coach Aaron Feis Guardian Program

The guardian program was established in 2018[28] as an option for school districts to meet the safe-school officer requirements in law.[29] Persons certified as school guardians have no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.[30]

A sheriff is required to provide access to a guardian program to aid in the prevention or abatement of active assailant incidents on school premises[31] If a district school board has voted by a majority to implement a guardian program, the sheriff in that county must establish a guardian program to provide training to school district or charter school employees, either directly or through a contract with another sheriff's office that has established a guardian program.[32]

In addition, a charter school governing board in a school district that has not implemented a guardian program may request the sheriff in the county to establish a guardian program for the purpose of training the charter school employees. If the county sheriff denies the request, the charter school governing board may contract with a sheriff that has established a guardian program to provide such training. The charter school governing board must notify the superintendent and the sheriff in the charter school's county of the contract prior to its execution.

The sheriff must certify as school guardians school employees who:[33]

- Hold a valid concealed weapon license.[34]
- Complete a 144-hour training program, consisting of 12 hours of certified nationally recognized diversity training and 132 total hours of comprehensive firearm safety and proficiency training, including 12 hours of training in precision pistol, conducted by Criminal Justice Standards and Training Commission (CJSTC)-certified instructors.
- Pass a psychological evaluation administered by a licensed psychologist[35] and designated by the Florida Department of Law Enforcement (FDLE) and submit the results of the evaluation to the sheriff's office.
- Submit to and pass an initial drug test and subsequent random drug tests in accordance with law[36] and the sheriff's office.
- Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.

[28] Section 26, ch. 2018-3, Laws of Fla.
[29] Section 1006.12, F.S.
[30] Section 30.15(1)(k), F.S.
[31] *Id.* A sheriff is required to consult with the Florida Department of Law Enforcement on programmatic guiding principles, practices, and resources in establishing a school guardian program. Section 30.15(1)(k)2., F.S.
[32] Section 30.15(1)(k)1.a., F.S. The sheriff conducting the training is 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. Section 30.15(1)(k)1.c., F.S.
[33] Section 30.15(1)(k)2., F.S.
[34] Section 790.06, F.S.
[35] Chapter 490 of the Florida Statutes governs licensure for psychological services.
[36] Section 112.0455, F.S.

The sheriff who conducts the guardian training must issue a school guardian certificate to individuals who have completed the required training to the satisfaction of the sheriff. The sheriff must also maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian certified by the sheriff. An individual certified as a school guardian may serve only if he or she is appointed by the applicable school district superintendent or charter school principal.[37]

Effect of Proposed Changes

The bill modifies s. 1006.12, F.S., relating to safe-school officers to align requirements between sworn law enforcement (SROs and school safety officers) and between Feis guardian program certified personnel (school guardians and school security guards).

The bill modifies requirements relating to school safety officer authority and training by:

- Clarifying that school safety officers have the power to make arrests on property owned or leased by a charter school in the district.
- Requiring that school safety officers must complete mental health crisis intervention training, similar to the training required of an SRO.

These provisions may clarify the authority of a school safety officer within the school district, and ensure that all sworn law enforcement officers in schools are trained to deal with crisis situations.

The bill also establishes requirements for Feis guardian program certified school security guards to clarify training, screening, authority, and oversight. Specifically:

- The school security guard must satisfactorily complete all requirements of the guardian program, and that training must be conducted by a county sheriff.
- The sheriff providing the training for a school security guard must be reimbursed by the DOE for screening- and training-related costs.
- The sheriff must maintain specified training, certification, inspection, and qualification records for school security guards.
- Similar to a school guardian, the school security guard has no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.
- The contract between a security agency and district school board must also define conditions, requirements, costs, and responsibilities necessary to satisfy background screening requirements.
- A school security guard serving in the capacity of a safe-school officer is considered to be a "noninstructional contractor" who has direct contact with a student for the purpose of background screening, which must be satisfied prior to the school security guard being permitted access to school grounds.
- An individual may only serve as a school security guard if he or she is appointed by the applicable school district superintendent or charter school administrator.

[37] *Supra,* note 31

The bill modifies s. 30.15, F.S., to clarify that the sheriff is responsible for Feis guardian program training. A sheriff may provide Feis guardian program training to school district or charter school employees directly, through a contract with an entity selected by the local sheriff, through a contract with another sheriff's office that has established a Feis guardian program, or any combination thereof. If the local sheriff contracts with another entity to provide the training, the local sheriff must oversee, supervise, and certify all aspects of the contract governing the Feis guardian program.

The bill also modifies Feis guardian program training to specify that:

- A sheriff who contracts with one or more county sheriffs to provide Feis guardian program training must notify, in writing, the local school district superintendent and charter school governing boards of any county-specific protocols.
- The 144-hour training program and ongoing training be conducted by CJSTC-certified instructors who hold active instructional certifications.
- The 16 hours of instruction in precision pistol include night and low-light shooting conditions.
- A licensed professional may administer the psychological examination individuals must pass as part of the Feis guardian program training, which is similar to the requirements for an SRO or school safety officer. The licensed professional is not required to be a licensed psychologist designated by the FDLE.
- The sheriff's office must review and approve the results of the psychological evaluation and drug tests for each applicant seeking Feis guardian program certification, before accepting the applicant into the Feis guardian program.

The bill clarifies that a charter school may waive the school district's obligation to assign a sworn law enforcement school resource or safety officer that arises when a school district denies a charter school access to safe school officer options, and the charter school may retain its safe school allocation funds.

These changes may ensure that guardian training is available to personnel in each Florida county, is consistently applied to all personnel serving as school guardians and school security guards, and improve delivery and administration of the program under the sole authority of a county sheriff.

School-Based Mental Health Services

Present Situation

The DOE, through the Bureau of Exceptional Education and Student Services and the OSS, is required to promote a system of support, policies, and practices that focus on prevention and early intervention to improve student mental health and school safety. Student services personnel, including school psychologists, social workers, and counselors, are responsible for advising students with regard to personal and social adjustments and providing services at the district and school level.[38]

[38] Section 1012.01(2)(b), F.S.

The Louis de la Parte Florida Mental Health Institute

Chapter 2002-397, L.O.F., established the Louis de la Parte Florida Mental Health Institute (institute) within the University of South Florida to strengthen mental health services throughout the state.[39] The institute is authorized to provide direct mental health services, coordinate with other agencies to provide mental health services, and support state agencies in the delivery of mental health services.[40]

The OSS is responsible for providing data to support the evaluation of mental health services by the institute.[41]

Individualized Education Plans

The individualized education plan (IEP) is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a student with a disability.[42] When the student attains the age of 16, the IEP must include an annually updated statement addressing the intent for the student to pursue a standard high school diploma and other appropriate measurable long-term postsecondary education and career goals.[43]

Mental Health Assistance Allocation

The mental health assistance allocation is a categorical fund established to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services.[44] A total of $75 million was appropriated to school districts through the mental health assistance allocation for the 2019-2020 school year.[45] In order to receive the allocation, a school district must develop and submit a plan outlining the local program and planned expenditures to the district school board for approval. This plan must include all district schools, including charter schools, unless a charter school chooses to independently develop and submit a plan outlining the local program and planned expenditures.[46]

The plans must include elements such as:[47]

- Identification of 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.
- Strategies or programs to reduce the likelihood of at-risk students developing certain mental health problems.

[39] Section 1004.44, F.S.
[40] Section 1004.44(3), F.S.
[41] Section 1001.212(7), F.S.
[42] Florida Department of Education, *Developing Quality Individual Education Plans* (2015), *available at* http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf, at 9 (last visited January 29, 2020).
[43] Section 1003.5716(2), F.S.
[44] Section 1011.62(16), F.S.
[45] Ch. 2019-115, Laws of Fla., s. 2, Specific Appropriation 93.
[46] *Supra*, note 45.
[47] Section 1011.62(16)(b), F.S.

- Strategies to identify mental health problems more effectively, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

School districts are required to annually submit a report to the DOE on program outcomes and expenditures for the previous fiscal year, by September 30.

Effect of Proposed Changes

The Louis de la Parte Florida Mental Health Institute

The bill modifies s. 1004.44, F.S., to require, upon becoming law, the institute, in consultation with the DJJ, the Department of Children and Families (DCF), and the DOE to convene a workgroup of practitioners and experts to review, evaluate, and provide implementation guidance on the mental health-related findings and recommendations of the commission. The bill requires the workgroup to analyze, evaluate, and identify regulatory or legislative actions necessary to facilitate implementation of each recommendation, and to submit an initial summary report to the Governor, the President, and the Speaker by August 1, 2020. The report must include specific policy and budget recommendations, including draft legislation and associated fiscal impact statements, and other information and policy or administrative recommendations to improve the state's mental health care system.

The bill requires the institute to continue to monitor commission activities and coordinate with agency partners to advise on implementation activities. The bill also authorizes the institute to submit subsequent reports and recommendations on an annual basis or as requested. The bill provides a sunset date for the workgroup of July 1, 2024, which is one year after the sunset date of the commission.

Individual Education Plans

The bill modifies s. 1003.5716, F.S., to add that the required transition plan for a student with an IEP, beginning in the 2021-2022 school year, must also include a statement of post-high school performance expectations, which must include:

- A plan to facilitate continuity of care and coordination of any behavioral health services needed to assist the student in reaching post-high school performance expectations.
- Parent, student, and agency roles and responsibilities pertaining to the provision and funding of specified transition services.

These changes may assist students who require an IEP, and their parents, in successfully navigating the transition from high school to higher education or the workforce.

Mental Health Assistance Allocation

The bill modifies s. 1011.62, F.S., to clarify and add new requirements for the mental health plans that must be submitted by school districts in order to receive the mental health assistance allocation. In addition to existing requirements, the bill requires plans to include input from school and community stakeholders and include mental health policies and procedures that implement and support:

- Universal supports to promote psychological well-being, and safe and supportive school environments.

- Methods for responding to a student with suicidal ideation, including training in suicide risk assessment and the use of suicide awareness, prevention, and screening instruments developed as required for continuing education and inservice training for youth suicide awareness and prevention; adoption of guidelines for informing parents of suicide risk; and implementation of school board policies for initiating involuntary examination of students at risk of suicide.
- A school crisis response plan that includes strategies to prevent, prepare for, respond to, and recover from a range of school crises. The plan must establish or coordinate the implementation of district-level and school-level crisis response teams whose membership includes, but is not limited to, representatives of school administration and school-based mental health service providers.

The bill also modifies district reporting requirements to the DOE and requires the DOE to submit a state summary of the required information from the school district reports to the Governor, the President, and the Speaker, by November 1 of each year. The bill requires the DOE report to include school district data required under current law and requires both reports to additionally include:

- Program outcomes and expenditures for all public schools in the district, including charter schools.
- District-level and school-level information, including multiple-year trend data, when available.
- The number and ratio of school social workers, school psychologists, and certified school counselors employed by the district or charter school and the total number of licensed mental health professionals employed directly by the district or charter school.

These changes may provide more suitable data to assist in the refinement of policies and improve the provision of school-based mental health services.

School Safety Oversight and Accountability

Present Situation

The Commissioner of Education

The commissioner is required by law to oversee compliance with the safety and security requirements of the Marjory Stoneman Douglas High School Public Safety Act, chapter 2018-3, L.O.F., 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 SBE, the Governor, or the Legislature enforcement and sanctioning actions.[48]

Charter School Safety Requirements

Charter schools must operate in accordance with the terms of their respective charters and are generally exempt from other requirements in the K-20 Education Code. The law requires charter

[48] Section 1001.11, F.S.

schools to comply with certain provisions in the K-20 Education Code, including any statutes pertaining to student health, safety, and welfare.[49]

The Office of Safe Schools

The OSS is a division of the DOE that serves as a central repository for best practices, training standards, and compliance oversight in matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning.[50] OSS responsibilities include duties related to school safety incident reporting and data. The OSS is also required to develop and implement a School Safety Specialist Training Program for school safety specialists, which must be based on national and state best practices on school safety and include active shooter training.[51]

The OSS is required to provide ongoing professional development opportunities to school district personnel.[52]

Effect of Proposed Changes

The Commissioner of Education

The bill modifies s. 1001.11, F.S., to clarify existing authority of the commissioner to oversee compliance with school safety and security requirements. The bill directs the commissioner to facilitate public and nonpublic school compliance with any education-related requirements of the law relating to health, welfare, safety, and security, pursuant to existing authority established in law. The bill clarifies that the incidents of noncompliance that require the commissioner to impose or recommend sanctions must be incidents of material noncompliance.

Charter School Safety Requirements

The bill modifies s. 1002.33, F.S., to require that charter schools demonstrate and certify compliance with specified statutes in their contracts or addendums to their contracts. The bill specifically requires charter schools certify compliance with district school requirements related to emergency drills and emergency procedures.

The bill modifies s. 1001.11(9), F.S., to require charter school governing boards to designate at least one administrator to be responsible for the duties assigned to a district school superintendent related to state reporting requirements concerning health, safety, and welfare. The bill aligns the penalties authorized to be imposed against a designated charter school administrator or charter school governing board with the penalties authorized to be imposed against a superintendent or district school board for violations of reporting requirements.

The bill also provides notification requirements for charter schools relating to safe-school officers. Specifically, the bill:

[49] Section 1002.33(16), F.S. The K-20 Education Code includes chapters 1000-1013 of the Florida Statutes.
[50] Section 1001.212, F.S. *See also*: Florida Department of Education, *Office of Safe Schools*, http://www.fldoe.org/safe-schools/ (last visited January 29, 2020).
[51] Section 1006.07(6)(a), F.S., requires each district school superintendent to designate a school administrator employed by the school district or a law enforcement officer employed by the sheriff's office as a school safety specialist for the district.
[52] Section 1001.212(2), F.S.

- Requires that charter school governing board notification to the applicable superintendent and sheriff of participation in the Feis guardian program must be in writing.
- Requires charter school administrators to comply with notification requirements to the county sheriff and the OSS for safe-school officer misconduct or firearm discharge.

The bill requires the OSS to provide ongoing professional development opportunities to charter school personnel in addition to existing requirements to provide training to school district personnel.

The Office of Safe Schools

The bill modifies s. 1001.212, F.S., to require the OSS to provide support with school safety incident reporting requirements. The bill requires the School Safety Specialist Training Program developed by the OSS, in consultation with the FDLE, to include information about federal and state laws regarding education records, medical records, data privacy, and incident reporting requirements, particularly with respect to behavioral threat assessment and emergency planning and response procedures. The bill also clarifies that the unified search tool provided by the OSS, known as the Florida School Safety Portal, must include data from all school safety incident reporting.

The bill requires the OSS to oversee, facilitate, and coordinate district and school compliance with school safety incident reporting requirements. The bill specifically requires the OSS to:
- Provide technical assistance to administrators for school safety incident reporting.
- Review and evaluate the safety incident reports related to SESIR, zero tolerance for crime and victimization, hazing, bullying and harassment, and dating violence and abuse, reported by each school district, charter school, and other entities as may be required by law.

The additional responsibilities concerning school safety that the bill delegates to the OSS may improve the accuracy of reported school safety data.

Marjory Stoneman Douglas High School Public Safety Commission

Present Situation

The commission was established in 2018 to investigate system failures in the Marjory Stoneman Douglas High School shooting and prior mass violence incidents, and to develop recommendations for system improvements.[53] The commission submitted its initial report to the Governor and the Legislature on January 2, 2019,[54] and its second report on November 1, 2019.[55] The commission is composed of 16 members, with five members each appointed by Governor, the President, and the Speaker. Members serve at the pleasure of the officer who appointed the member. A vacancy on the commission must be filled in the same manner as the original appointment. The commission is scheduled to sunset on July 1, 2023.[56]

[53] Section 943.687(3), F.S.
[54] Commission, *Initial Report* (Jan. 2, 2019), *available at* http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf (last visited January 29, 2020).
[55] Commission, *supra* note 17. The commission was required to submit an initial report by January 1, 2019, and is authorized to issue annual reports. Section 943.687(9), F.S.
[56] Section 943.687, F.S.

Effect of Proposed Changes

The bill modifies s. 943.687, F.S., effective upon becoming law, to require the Governor, the President, and the Speaker to each appoint one additional member to the commission to be selected from among the state's actively-serving school district superintendents, school principals, or classroom teachers. The bill also requires:

- The three new appointments be made by May 30, 2020, to serve beginning June 1, 2020.
- Future appointments be made in consideration of an equal balance of school district, law enforcement, and health care professional representation, and reflect the diversity of the state.

These changes ensure education representation on the commission and may assist the commission in addressing school safety and security issues.

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 Department of Education (DOE) estimates that it will need a total of $897,644 in additional funds to implement provisions of the bill related to OSS and the Independent Education and Parental Choice office. Specifically, DOE estimates that the additional

responsibilities outlined in the bill will require an additional eight staff members ($680,240) within the Office of Safe Schools. One OSS staff member would be responsible for maintaining a current directory of public and private school-based diversion programs and determine compliance of those programs. Another OSS staff member would serve as a data analyst and coordinate with district SESIR and MIS liaisons. The remaining six OSS staff members would work in the field to conduct compliance monitoring for an average of 625 schools per staff member, and incur an estimated $144,000 in travel expenses.

The DOE also estimates that an additional staff member ($73,404) is needed in the Independent Education and Parental Choice Office to enforce compliance with provisions of the bill for private schools that receive state school scholarship program funds.

In addition, there may be indeterminate, minimal costs to local law enforcement, local school districts, state attorney offices, the Louis de la Parte Florida Mental Health Institute, charter schools, and the Department of Juvenile Justice to implement other provisions of the bill. Local law enforcement agencies could incur costs to have responding officers present and involved in all emergency drills at each school. School districts may incur costs to contract with a licensed psychologist to evaluate guardian candidates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 30.15, 943.082, 943.687, 985.12, 1001.11, 1001.212, 1002.33, 1002.421, 1003.5716, 1004.44, 1006.07, 1006.09, 1006.12, 1006.1493, and 1011.62.

IX. Additional Information:

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

CS by Appropriations on February 20, 2020:
The committee substitute makes the following changes to the bill:

- Removes the Department of Education (DOE) as an entity for monitoring and enforcing compliance with school-based diversion program requirements.
- Clarifies that law enforcement officers only have field access to civil citation and diversion information from the Juvenile Justice Information System database, rather than full access to the Juvenile Justice Information System database.

- Incorporates recommendations from the Florida Department of Law Enforcement (FDLE) that:
  - Require the Office of Safe Schools to consult with the FDLE in the development of training for school safety specialists.
  - Clarify the background screening requirements of Feis program certified security guards by removing reference to s. 1012.467, F.S.
- Changes "centralized integrated data repository" to "unified search tool", known as the Florida Schools Safety Portal to improve access to timely, complete, and accurate information from multiple data sources.
- Delays implementation of the requirement to include a statement of post-high school performance expectations in a student's Individualized Education Plan until the 2021-2022 school year.
- Authorizes school board policies to provide accommodations for drills conducted by Exceptional Student Education (ESE) centers.
- Removes provisions from the bill requiring the State Board of Education to adopt rules for emergency and active assailant drills.
- Removes Section 14 of CS/SB 7040 related to zero tolerance policies for crime and victimization.
- Clarifies that a charter school may waive the school district's obligation to assign a sworn law enforcement school resource or safety officer that arises when a school district denies a charter school access to safe school officer options, and the charter school may retain its safe school allocation funds.
- Changes the effective date of the bill to July 1, except as otherwise expressly provided in the bill:
  - Section 3 related to changing the makeup of the Commission to include three additional members is effective upon becoming law.
  - Section 10 related to the Institute convening a workgroup is effective upon becoming law

CS by Infrastructure and Security on February 3, 2020:

- Requires the DJJ and the state attorney of each judicial circuit, in cooperation with the DOE, to monitor and enforce compliance with school-based diversion program requirements in charter and private schools.

B. Amendments:

None.

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LEGISLATIVE ACTION

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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) Assist district school boards and charter school

governing boards in complying with s. 1006.12. A sheriff must, at a minimum, provide access to ~~a~~ Coach Aaron Feis Guardian Program training to aid in the prevention or abatement of active assailant incidents on school premises, as required under this paragraph. Persons certified as Feis guardian program certified school guardians or Feis guardian program certified school security guards pursuant to this paragraph do not have ~~no~~ authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.

1.a. If a local school board has voted by a majority to implement a Feis guardian program, the sheriff in that county shall establish a Feis guardian program to provide training, pursuant to subparagraph 2., to school district or charter school employees directly; through a contract with an entity selected by the local sheriff, provided that the local sheriff oversees, supervises, and certifies all aspects of the contract governing the Feis guardian program for the local jurisdiction; ~~, either directly or~~ through a contract with another sheriff's office that has established a Feis guardian program; or through any combination thereof. To facilitate effective training and emergency response in the event of an active assailant situation, a sheriff who contracts with one or more county sheriffs to provide Feis guardian program training and certification for the local school district and charter schools within its county jurisdiction shall notify, in writing, the local district school superintendent and charter school administrators of all county-specific protocols incorporated into the contracted Feis guardian program training and

certification requirements.

b. A charter school governing board in a school district that has not voted, or has declined, to implement a Feis guardian program may request the sheriff in the county to establish a Feis guardian program for the purpose of training the charter school employees. If the county sheriff denies the request, the charter school governing board may contract with a sheriff that has established a Feis guardian program to provide such training. The charter school governing board must notify, in writing, the superintendent and the sheriff in the charter school's county of the contract prior to its execution.

c. The sheriff conducting the Feis guardian program training pursuant to subparagraph 2. shall ~~will~~ be reimbursed by the Department of Education for screening-related and training-related costs for Feis guardian program certified school guardians and Feis guardian program certified school security guards as provided in s. 1006.12(3) and (4), respectively, and for providing a one-time stipend of $500 to each Feis guardian program certified school guardian who participates in the Feis ~~school~~ guardian program as an employee of a school district or charter school.

2. A sheriff who establishes a Feis guardian training program shall consult with the Department of Law Enforcement on programmatic guiding principles, practices, and resources, and shall certify, without the power of arrest, Feis guardian program certified ~~as~~ school guardians~~, without the power of arrest, school employees,~~ as specified in s. 1006.12(3) and Feis guardian program school security guards as specified in s. 1006.12(4)~~,~~ who:

a. Hold a valid license issued under s. 790.06, applicable to district or school employees serving as Feis guardian program certified school guardians pursuant to s. 1006.12(3); or hold a valid Class "D" and Class "G" license issued under chapter 493, applicable to individuals contracted to serve as Feis guardian program certified school security guards under s. 1006.12(4).

b. Complete a 144-hour training program, consisting of 12 hours of certified nationally recognized diversity training and 132 total hours of comprehensive firearm safety and proficiency training, conducted by Criminal Justice Standards and Training Commission-certified instructors who hold active instructional certifications, which must include:

(I) 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.

(II) Sixteen hours of instruction in precision pistol. Training must include night and low-light shooting conditions.

(III) Eight hours of discretionary shooting instruction using state-of-the-art simulator exercises.

(IV) Eight hours of instruction in active shooter or assailant scenarios.

(V) Eight hours of instruction in defensive tactics.

(VI) Twelve hours of instruction in legal issues.

c. Submit to and pass a psychological evaluation administered by a licensed professional ~~psychologist licensed under chapter 490 and designated by the Department of Law~~

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~~Enforcement~~ and submit the results of the evaluation to the sheriff's office. The sheriff's office must review and approve the results of each applicant's psychological evaluation before accepting the applicant into the Feis guardian program. The Department of Law Enforcement is authorized to provide the sheriff's office with mental health and substance abuse data for compliance with this paragraph.

d. Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455 and the sheriff's office. The sheriff's office must review and approve the results of each applicant's drug tests before accepting the applicant into the Feis guardian program.

e. Successfully complete ongoing training conducted by a Criminal Justice Standards and Training Commission-certified instructor who holds an active instructional certification, weapon inspection, and firearm qualification on at least an annual basis, as required by the sheriff's office.

The sheriff who conducts the Feis guardian program training pursuant to this paragraph shall issue a Feis ~~school~~ guardian program certificate to individuals who meet the requirements of this section to the satisfaction of the sheriff, and shall maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each Feis guardian program certified school guardian and Feis guardian program certified school security guard certified by the sheriff. An individual who is certified under this paragraph may serve as a Feis guardian program certified school guardian under s. 1006.12(3) or a Feis

guardian program certified school security guard under s. 1006.12(4) only if he or she is appointed by the applicable district school superintendent ~~school district superintendent~~ or charter school administrator ~~principal~~.

Section 2. Effective October 1, 2020, paragraph (c) is added to subsection (2) of section 943.082, Florida Statutes, to read:

943.082 School Safety Awareness Program.—

(2) The reporting tool must notify the reporting party of the following information:

(c) That, if following investigation, it is determined that a person knowingly submitted a false tip through FortifyFL, the IP address of the device on which the tip was submitted will be provided to law enforcement agencies for further investigation and the reporting party may be subject to criminal penalties under s. 837.05. In all other circumstances, unless the reporting party has chosen to disclose his or her identity, the report must remain anonymous.

Section 3. Effective upon becoming law, paragraph (a) of subsection (2) of section 943.687, Florida Statutes, is amended to read:

943.687 Marjory Stoneman Douglas High School Public Safety Commission.—

(2)(a)1. The commission shall convene no later than June 1, 2018, and shall be composed of 16 members. Five members shall be appointed by the President of the Senate, five members shall be appointed by the Speaker of the House of Representatives, and five members shall be appointed by the Governor. From the members of the commission, the Governor shall appoint the chair.

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Appointments must be made by April 30, 2018. The Commissioner of the Department of Law Enforcement shall serve as a member of the commission. The Secretary of Children and Families, the Secretary of Juvenile Justice, the Secretary of Health Care Administration, and the Commissioner of Education shall serve as ex officio, nonvoting members of the commission. Members shall serve at the pleasure of the officer who appointed the member. A vacancy on the commission shall be filled in the same manner as the original appointment.

2. In addition to the membership requirements of subparagraph 1., beginning June 1, 2020, the commission shall include three additional members selected from among the state's actively serving district school superintendents, school principals, and classroom teachers. The additional members must be appointed by May 30, 2020, one each by the Governor, the President of the Senate, and the Speaker of the House of Representatives. Thereafter, to the extent possible, future appointments to fill vacancies or replace members of the commission must give consideration to achieving an equal balance of school district, law enforcement, and health care professional representation which reflects the cultural diversity of the state.

Section 4. Paragraphs (c) and (f) of subsection (2) of section 985.12, Florida Statutes, are amended to read:

985.12 Civil citation or similar prearrest diversion programs.—

(2) JUDICIAL CIRCUIT CIVIL CITATION OR SIMILAR PREARREST DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

(c) The state attorney of each circuit shall operate a

civil citation or similar prearrest diversion program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent civil citation or similar prearrest diversion program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the civil citation or similar prearrest diversion program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the civil citation or similar prearrest diversion program developed by the circuit, the operator of the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program. The department and the state attorney of each judicial circuit shall monitor and enforce compliance with school-based diversion program requirements.

(f) Each civil citation or similar prearrest diversion program shall enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program. Beginning in fiscal year 2021-2022, law enforcement officers must have field access to civil citation and prearrest diversion information.

Section 5. Subsection (9) of section 1001.11, Florida Statutes, is amended to read:

1001.11 Commissioner of Education; other duties.—

(9) With the intent of ensuring safe learning and teaching environments, the commissioner shall oversee compliance with

education-related health, ~~the~~ safety, welfare, and security requirements of law ~~the Marjory Stoneman Douglas High School Public Safety Act, chapter 2018-3, Laws of Florida,~~ by school districts; district school superintendents; ~~and~~ public schools, including charter schools; and other entities or constituencies as may be applicable. The commissioner shall ~~must~~ facilitate public and nonpublic school compliance to the maximum extent provided under law, identify incidents of material noncompliance, and impose or recommend to the State Board of Education, the Governor, or the Legislature enforcement and sanctioning actions pursuant to s. 1001.42, s. 1001.51, chapter 1002, and s. 1008.32, and other authority granted under law. For purposes of this subsection, s. 1001.42(13)(b), and s. 1001.51(12)(b), the duties assigned to a district school superintendent apply to charter school administrative personnel as defined in s. 1012.01(3), and charter school governing boards shall designate at least one administrator to be responsible for such duties. The duties assigned to a district school board apply to a charter school governing board.

Section 6. Present subsections (14) and (15) of section 1001.212, Florida Statutes, are redesignated as subsections (16) and (17), respectively, new subsections (14) and (15) are added to that section, and subsections (2), (4), (6), and (8) of that section are 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


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regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning. The office shall:

(2) Provide ongoing professional development opportunities to school district and charter school personnel.

(4) Develop and implement a School Safety Specialist Training Program for school safety specialists appointed pursuant to s. 1006.07(6). The office shall develop the training program, which shall be based on national and state best practices on school safety and security and must include active shooter training. Training must be developed in consultation with the Florida Department of Law Enforcement and include information about federal and state laws regarding education records, medical records, data privacy, and incident reporting requirements, particularly with respect to behavioral threat assessment and emergency planning and response procedures. The office shall develop training modules in traditional or online formats. A school safety specialist certificate of completion shall be awarded to a school safety specialist who satisfactorily completes the training required by rules of the office.

(6) Coordinate with the Department of Law Enforcement to provide a unified search tool, known as the Florida Schools Safety Portal, ~~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 August 1, 2019~~:

(a) Social media Internet posts;

(b) Department of Children and Families;


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(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) 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 Criminal Justice Information Services security policy, where applicable.


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(8) Oversee, facilitate, and coordinate district and school compliance with school safety incident reporting requirements in accordance with rules adopted by the state board enacting the school safety incident reporting requirements of this subsection, s. 1006.07(9), and other statutory safety incident reporting requirements. The office shall:

(a) Provide technical assistance to school districts and charter school governing boards and administrators for school ~~environmental~~ safety incident reporting as required under s. 1006.07(9).

(b) ~~The office shall~~ Collect data through school ~~environmental~~ safety incident reports on incidents involving any person which occur on school premises, on school transportation, and at off-campus, school-sponsored events.

(c) Review and evaluate safety incident reports of each ~~The office shall review and evaluate~~ school district and charter school and other entities, as may be required by law, ~~reports~~ to ensure compliance with reporting requirements. The office shall timely notify the commissioner of all incidents of material noncompliance for purposes of invoking the commissioner's responsibilities provided under s. 1001.11(9). Upon notification by the commissioner ~~department~~ that a superintendent or charter school administrator has, based on clear and convincing evidence, failed to comply with the requirements of s. 1006.07(9), the district school board or charter school governing board, as applicable, 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, pending demonstration of full

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compliance.

(14) Maintain a current directory of public and private school-based diversion programs and cooperate with each judicial circuit and the Department of Juvenile Justice to facilitate their efforts to monitor and enforce each governing body's compliance with s. 985.12.

(15) Develop, in coordination with the Division of Emergency Management, other federal, state, and local law enforcement agencies, fire and rescue agencies, and first responder agencies, a model emergency event family reunification plan for use by child care facilities, public K-12 schools, and public postsecondary institutions that are closed or unexpectedly evacuated due to natural or manmade disasters or emergencies.

Section 7. 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 demonstrate and certify in its contract, and if necessary through addendum to its contract, the charter school's ~~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.

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.

15. Section 1006.07(4), relating to emergency drills and emergency procedures.

16. Section 1006.07(2)(n), relating to criteria for assigning a student to a civil citation or similar prearrest diversion program.

Section 8. Paragraph (r) is added to subsection (1) of section 1002.421, Florida Statutes to read:

1002.421 State school choice scholarship program accountability and oversight.—

(1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private

school participating in an educational scholarship program established pursuant to this chapter must be a private school as defined in s. 1002.01(2) in this state, be registered, and be in compliance with all requirements of this section in addition to private school requirements outlined in s. 1002.42, specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools, and must:

(r) Comply with section 1006.07(2)(n), Florida Statutes.

The department shall suspend the payment of funds to a private school that knowingly fails to comply with this subsection, and shall prohibit the school from enrolling new scholarship students, for 1 fiscal year and until the school complies. If a private school fails to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (q), the commissioner may determine that the private school is ineligible to participate in a scholarship program.

Section 9. Paragraph (d) is added to subsection (2) of section 1003.5716, Florida Statutes, to read:

1003.5716 Transition to postsecondary education and career opportunities.—All students with disabilities who are 3 years of age to 21 years of age have the right to a free, appropriate public education. As used in this section, the term "IEP" means individual education plan.

(2) Beginning not later than the first IEP to be in effect when the student attains the age of 16, or younger if determined appropriate by the parent and the IEP team, the IEP must include

the following statements that must be updated annually:

(d) Beginning in the 2021-2022 school year, a statement of post-high school performance expectations which includes a proposed transition plan that facilitates continuity of care and coordination of any behavioral health services needed to assist the student in reaching those expectations. The statement must also specify parent, student, and agency roles and responsibilities pertaining to the provision and funding of specified transition services, as applicable.

Section 10. Effective upon becoming law, subsection (5) is added to section 1004.44, Florida Statutes, to read:

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

(5) In consultation with the Department of Children and Families, the Department of Juvenile Justice, and the Department of Education, the institute shall convene a workgroup of practitioners and experts to review, evaluate, and provide implementation guidance on the mental health-related findings and recommendations of the Marjory Stoneman Douglas High School Public Safety Commission, as approved in reports submitted pursuant to s. 943.687. The workgroup shall analyze, evaluate, and identify regulatory or legislative actions necessary to facilitate implementation of each recommendation. By August 1, 2020, the institute shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an initial summary report of activities, specific policy and budget recommendations, including draft legislation and associated fiscal impact statements, and other information and

policy or administrative recommendations to improve the state's mental health system of care. The institute must continue to monitor commission activities and coordinate with agency partners to advise them on implementation activities, and may submit subsequent reports and recommendations on an annual basis or as requested. This subsection shall expire July 1, 2024.

Section 11. Paragraph (a) of subsection (4), paragraph (a) of subsection (6), paragraph (a) of subsection (7), and subsection (9) of section 1006.07, Florida Statutes, are amended, and paragraph (n) of subsection (2), paragraph (d) of subsection (4), and subsection (10) are 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 attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) CODE OF STUDENT CONDUCT.—Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be

made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(n) Criteria for assigning a student to a civil citation or similar prearrest diversion program that is an alternative to expulsion or referral to law enforcement agencies. All civil citation or similar prearrest diversion programs must comply with s. 985.12.

(4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

(a) Formulate and prescribe policies and procedures, in consultation with the appropriate public safety agencies, for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, active shooter and hostage situations, and bomb threats, for all students and faculty at all public schools of the district comprised of grades K-12. Drills for active shooter and hostage situations shall be conducted in accordance with developmentally appropriate and age-appropriate procedures at least as often as other emergency drills. Law enforcement officers responsible for responding to the school in the event of an active assailant emergency, as determined necessary by the sheriff in coordination with the district's school safety specialist, must be physically present on campus and directly involved in the execution of active assailant emergency drills. District school board policies shall include commonly used alarm system responses for specific types of emergencies and verification by each school that drills have been provided as required by law and fire protection codes and may provide accommodations for drills conducted by ESE centers. The emergency response policy shall identify the individuals responsible for contacting the primary emergency response agency

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and the emergency response agency that is responsible for notifying the school district for each type of emergency.

(d) Consistent with subsection (10), as a component of emergency procedures, each district school board and charter school governing board must adopt, in coordination with local law enforcement agencies, an emergency event family reunification plan to reunite students and employees with their families in the event of a mass casualty or other emergency event situation.

(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 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 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 to 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, by October 1 of each year, conduct a school security risk assessment at each public school using the Florida Safe Schools 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. 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.

(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 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(12).

(a) A threat assessment team shall include a sworn law enforcement officer who has undergone threat assessment training identified by the Office of Safe Schools pursuant to s. 1001.212, and persons with expertise in counseling, instruction, and school administration~~, and law enforcement~~. All required members of the threat assessment team must be involved in the threat assessment process, from start to finish, including the determination of the final disposition decision. 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


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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.

(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. For purposes of s. 1001.212(8) and this subsection, incidents related to school safety and discipline include incidents reported pursuant to ss. 1006.09, 1006.13, 1006.135, 1006.147, and 1006.148. 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 reporting ~~report~~.

(10) EMERGENCY EVENT FAMILY REUNIFICATION POLICIES AND PLANS.—By August 1, 2021, each district school board shall adopt a school district emergency event family reunification policy establishing elements and requirements for a school district emergency event family reunification plan and individual school-based emergency event family reunification plans for the purpose of reuniting students and employees with their families in the event of a mass casualty or other emergency event situation.

(a) School district policies and plans must be coordinated

with the county sheriff and local law enforcement. School-based plans must be consistent with school board policy and the school district plan. The school board is encouraged to apply model mass casualty death notification and reunification policies and practices referenced in reports published pursuant to s. 943.687 and as developed by the Office of Safe Schools.

(b) Minimally, plans must identify potential reunification sites and ensure a unified command at each site, identify equipment needs, provide multiple methods of communication with family members of students and staff, address training for employees, and provide multiple methods to aid law enforcement in identification of students and staff, including written backup documents.

Section 12. Subsection (6) of section 1006.09, Florida Statutes, is amended to read:

1006.09 Duties of school principal relating to student discipline and school safety.—

(6) Each school principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the department through the School Environmental Safety Incident Reporting (SESIR) System. The school principal must develop a plan to verify the accuracy of reported incidents.

Section 13. 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 district school superintendent ~~school district superintendent~~ shall partner with


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law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. A district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options available under this section. The school district may implement one or more ~~any combination~~ of the options specified in subsections (1)-(4) to best meet the needs of the school district and charter schools.

(1) SWORN LAW ENFORCEMENT SCHOOL RESOURCE OFFICER.—A school district may establish school resource officer programs through a cooperative agreement with law enforcement agencies.

(a) Sworn law enforcement 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 sworn law enforcement school resource officer.

(b) Sworn law enforcement 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 sworn law enforcement school resource officer which are part of the regular instructional program of the school shall be under the direction of the school principal.

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(c) Sworn law enforcement school resource officers shall 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) SWORN LAW ENFORCEMENT SCHOOL SAFETY OFFICER.—A school district may commission one or more sworn law enforcement 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 sworn law enforcement school safety officers.

(a) Sworn law enforcement 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 sworn law enforcement school safety officer has and shall exercise the power to make arrests for violations of law on district school board property or on property owned or leased by a charter school under the charter contract, as applicable, 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 sworn law enforcement 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 sworn law enforcement school safety officer's salary may be paid jointly by the district school board and the law enforcement agency, as mutually agreed to.

(d) Sworn law enforcement school safety officers shall complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention. The training must 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.

(3) FEIS GUARDIAN PROGRAM CERTIFIED SCHOOL GUARDIAN.—At the school district's or the charter school governing board's discretion, as applicable, pursuant to s. 30.15, a school district or charter school governing board may participate in the Coach Aaron Feis Guardian Program to meet the requirement of establishing a safe-school officer. The following individuals may serve as a Feis guardian program certified school guardian, in support of school-sanctioned activities for purposes of s. 790.115, 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


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under s. 1002.33(12)(a), who volunteers to serve as a Feis guardian program certified school guardian in addition to his or her official job duties; or

(b) An employee of a school district or a charter school who is hired for the specific purpose of serving as a Feis guardian program certified school guardian.

(4) FEIS GUARDIAN PROGRAM CERTIFIED SCHOOL SECURITY GUARD.—A school district or charter school governing board may contract with a security agency as defined in s. 493.6101(18) to employ as a Feis guardian program certified school security guard an individual who holds a Class "D" and Class "G" license pursuant to chapter 493, provided the following training and contractual conditions are met:

(a) An individual who serves as a Feis guardian program certified school security guard, for purposes of satisfying the requirements of this section, must:

1. Demonstrate satisfactory completion of all training program requirements of the Coach Aaron Feis Guardian Program, as provided and certified by a county sheriff, ~~144 hours of required training~~ pursuant to s. 30.15(1)(k)2.

2. Submit to and pass a psychological evaluation administered by a licensed professional ~~psychologist licensed under chapter 490 and designated by the Department of Law Enforcement~~ and submit the results of the evaluation to the sheriff's office~~, school district, or charter school governing board, as applicable~~. The sheriff's office must review and approve the results of each applicant's psychological evaluation before accepting the applicant into the Feis guardian program. The Department of Law Enforcement is authorized to provide the


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765 sheriff's office~~, school district, or charter school governing~~
766 ~~board~~ with mental health and substance abuse data for compliance
767 with this paragraph.
768 3. Submit to and pass an initial drug test and subsequent
769 random drug tests in accordance with the requirements of s.
770 112.0455 and the sheriff's office~~, school district, or charter~~
771 ~~school governing board, as applicable~~. The sheriff's office must
772 review and approve the results of each applicant's drug tests
773 before accepting the applicant into the Feis guardian program.
774 4. Successfully complete ongoing training, weapon
775 inspection, and firearm qualification on at least an annual
776 basis, as required by the sheriff's office ~~and provide~~
777 ~~documentation to the sheriff's office, school district, or~~
778 ~~charter school governing board, as applicable~~.
779 (b) The contract between a security agency and a school
780 district or a charter school governing board regarding
781 requirements applicable to Feis guardian program certified
782 school security guards serving in the capacity of a safe-school
783 officer for purposes of satisfying the requirements of this
784 section shall define the county sheriff or sheriffs ~~entity or~~
785 ~~entities~~ responsible for Feis guardian program training and the
786 responsibilities for maintaining records relating to training,
787 inspection, and firearm qualification; and define conditions,
788 requirements, costs, and responsibilities necessary to satisfy
789 the background screening requirements of paragraph (d).
790 (c) Feis guardian program certified school security guards
791 serving in the capacity of a safe-school officer pursuant to
792 this subsection are in support of school-sanctioned activities
793 for purposes of s. 790.115, and must aid in the prevention or

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abatement of active assailant incidents on school premises.

(d) A Feis guardian program certified school security guard serving in the capacity of a safe-school officer pursuant to this subsection is considered to be a "noninstructional contractor" subject to the background screening requirements of s. 1012.465, as they apply to each applicable school district or charter school, and these requirements must be satisfied before the Feis guardian program certified school security guard is given access to school grounds.

(5) NOTIFICATION.—The school district superintendent or charter school administrator shall notify the county sheriff and the Office of Safe Schools immediately after, but no later than 72 hours after:

(a) A safe-school officer is dismissed for misconduct or is otherwise disciplined.

(b) A safe-school officer discharges his or her firearm in the exercise of the safe-school officer's duties, other than for training purposes.

(6) EXEMPTION.—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.

If a district school board, through its adopted policies,

procedures, or actions, denies a charter school access to any safe-school officer options pursuant to this section, the school district must assign a sworn law enforcement school resource officer or sworn law enforcement school safety officer to the charter school. Under such circumstances, the charter school's share of the costs of the sworn law enforcement school resource officer or sworn law enforcement school safety officer may not exceed the safe school allocation funds provided to the charter school pursuant to s. 1011.62(15) and shall be retained by the school district.

Section 14. Paragraph (a) of subsection (2) of section 1006.1493, Florida Statutes, is amended to read:

1006.1493 Florida Safe Schools Assessment Tool.—

(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~~

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8. A return on investment analysis of the recommended physical security controls and;~~.~~

9. Policies and procedures to prepare for and respond to natural or manmade disasters or emergencies, including plans to reunite students and employees with families after a school is closed or unexpectedly evacuated due to such disasters or emergencies.

Section 15. Subsection (16) 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:

(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; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services. These funds shall be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district shall 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. Charter schools that submit a plan separate from the school district are entitled to a proportionate share of

district funding. 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.

(a) Before the distribution of the allocation:

1. The school district shall ~~must~~ develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval. The ~~This~~ plan, which must include input from school and community stakeholders, applies to all district schools, including charter schools, unless a charter school elects to submit a plan independently from the school district pursuant to subparagraph 2.

2. A charter school may 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.

(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver 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

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, certified school counselors, school psychologists, school social workers, and other licensed mental health professionals. The plan also must establish ~~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.

2. Contracts or interagency agreements with one or more 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.

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

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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.

4. Mental health policies and procedures that implement and support all of the following elements:

a. Universal supports to promote psychological well-being and safe and supportive environments.

b. Evidence-based strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health problems, depression, anxiety disorders, suicidal tendencies, or substance use disorders.

c.~~5.~~ Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders; provide~~, to improve the provision of~~ early intervention services;~~,~~ and ~~to~~ assist students in dealing with trauma and violence.

d. Methods for responding to a student with suicidal ideation, including training in suicide risk assessment and the use of suicide awareness, prevention, and screening instruments developed under s. 1012.583; adoption of guidelines for informing parents of suicide risk; and implementation of board policies for initiating involuntary examination of students at risk of suicide.

e. A school crisis response plan that includes strategies for the prevention of, preparation for, response to, and

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recovery from a range of school crises. The plan must establish or coordinate the implementation of district-level and school-level crisis response teams whose membership includes, but is not limited to, representatives of school administration and school-based mental health service providers.

(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) By September 30 of each year ~~Beginning September 30, 2019, and annually by September 30 thereafter~~, each school district shall submit its district report to the department. By November 1 of each year, the department shall submit a state summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on ~~Department of Education a report on its~~ program outcomes and expenditures for the previous fiscal year. The school district report must include program outcomes and expenditures for all public schools in the district, including charter schools that submitted a separate plan. At a minimum, the district and state reports also must ~~that, at a minimum, must~~ include school district-level and school-level, including charter schools, information, including multiple-year trend data, when available, for each of ~~the number of each of~~ the following indicators:

1. The number of students who receive screenings or assessments.

2. The number of students who are referred to either school-based or community-based providers for services or assistance.

3. The number of students who receive either school-based

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or community-based interventions, services, or assistance.

4. The number of school-based and community-based mental health providers, including licensure type, paid for from funds provided through the allocation.

5. The number and ratio to students of school social workers, school psychologists, and certified school counselors employed by the district or charter school and the total number of licensed mental health professionals directly employed by the district or charter school.

6. Contract-based collaborative efforts or partnerships with community mental health programs, agencies, or providers.

Section 16. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, 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 implementation of the recommendations of the Marjory Stoneman Douglas High School Public Safety Commission; amending s. 30.15, F.S.; authorizing a sheriff to contract for services to provide training under the Coach Aaron Feis Guardian Program; revising training and evaluation requirements for school guardians; expanding the program to include the training and certification of school security guards; requiring the review and

approval of evaluations and results; amending s. 943.082, F.S.; adding penalties for persons who knowingly submit false information to a law enforcement agency; amending s. 943.687, F.S.; requiring the addition of three members to the Marjory Stoneman Douglas High School Public Safety Commission as of a certain date; requiring consideration of balanced representation; amending s. 985.12, F.S.; requiring certain state agencies and state attorneys to cooperate in the oversight and enforcement of school-based diversion programs; requiring that law enforcement officers have access to certain information; amending s. 1001.11, F.S.; specifying legislative intent; assigning the Commissioner of Education specified duties regarding education-related school safety requirements; amending s. 1001.212, F.S.; revising the training, consultation, and coordination responsibilities of the Office of Safe Schools; conforming and requiring evaluation and coordination of incident reporting requirements; requiring the office to maintain a directory of programs; requiring the office to develop a model plan; amending s. 1002.33, F.S.; conforming safety requirements to changes made by the act; amending s. 1002.421, F.S.; requiring private schools comply with certain statutory provision related to criteria for assigning a student to a civil citation or similar prearrest diversion program; amending s. 1003.5716, F.S.; revising individual education plan requirements

for certain students to include a statement of expectations for the transition of behavioral health services needed after high school graduation; requiring parent, student, and agency roles and responsibilities to be specified in a course of action transition plan, as applicable; amending s. 1004.44, F.S.; requiring the Louis de la Parte Florida Mental Health Institute to consult with specified state agencies and convene a workgroup to advise those agencies on the implementation of specified mental health recommendations; requiring the institute to submit a report with administrative and legislative policy recommendations to the Governor and the Legislature by a specified date; authorizing the institute to submit additional reports and recommendations as needed and requested; amending s. 1006.07, F.S.; requiring code of student conduct policies to contain prearrest diversion program criteria; specifying requirements applicable to emergency drill policies and procedures; adding threat assessment team membership, training, and procedural requirements; incorporating additional discipline and behavioral incident reports within school safety incident reporting requirements; requiring district school boards to adopt school district emergency event family reunification policies and plans; requiring school-based emergency event family reunification plans to be consistent with school board policy and the school district plan; requiring plans to address

specified requirements within the framework of model policies and plans identified by the office; amending s. 1006.09, F.S.; requiring school principals to use a specified system to report school safety incidents; amending s. 1006.12, F.S.; requiring school safety officers to complete specified training to improve knowledge and skills as first responders to certain incidents; specifying county sheriffs' responsibility for specified training required for school security guards; requiring certain school security guards to meet district background screening requirements and qualification requirements; conforming notification requirements to changes made by the act; amending s. 1006.1493, F.S.; revising components that must be assessed by the Florida Safe Schools Assessment Tool to include policies and procedures to prepare for and respond to natural or manmade disasters or emergencies; amending s. 1011.62, F.S.; revising requirements that must be met before the distribution of the mental health assistance allocation; providing effective dates.

701724

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2020	.	
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	.	
	.	

The Committee on Appropriations (Thurston) recommended the following:

Senate Amendment to Amendment (390288) (with title amendment)

Delete lines 165 - 177
and insert:
2. In addition to the membership requirements of subparagraph 1., effective June 1, 2020, the commission membership is expanded to include five additional members. By May 31, 2020, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint one

701724

additional member selected from among the state's actively serving district school superintendents, school principals, and classroom teachers, one of which shall be of Hispanic or Latino descent or heritage. The additional members also must include the president of the NAACP Florida State Conference or his or her designee and a representative of the Florida Consortium of Urban League Affiliates, designated by the consortium. Thereafter, to the extent possible, future appointments to fill vacancies or replace members of the commission must give consideration to achieving an equal balance of school district, law enforcement, and health care professional representation and to reflecting the cultural diversity of this state.

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

And the title is amended as follows:

Delete lines 1030 - 1032

and insert:

requiring that the membership of the Marjory Stoneman Douglas High School Public Safety Commission be expanded as of a specified date; requiring the Governor, the President of the Senate, and the Speaker of the House of Representatives to appoint specified additional members; providing for the inclusion of additional members; requiring consideration of

105554

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2020	.	
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	.	
	.	

The Committee on Appropriations (Thurston) recommended the following:

Senate Amendment to Amendment (390288) (with directory and title amendments)

Between lines 481 and 482
insert:

(o) Criteria for assigning a student to a school-based intervention program. A student's participation in a school-based intervention program shall not be entered into the Juvenile Justice Information System Prevention Web.

105554

====== 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 line 455
and insert:
amended, and paragraphs (n) and (o) of subsection (2), paragraph (d) of

================ T I T L E A M E N D M E N T ================
And the title is amended as follows:
Delete line 1073
and insert:
criteria; requiring such policies to contain certain school-based intervention program criteria; prohibiting the entry of a student's participation in a school-based intervention program into the Juvenile Justice Information System Prevention Web; specifying requirements applicable to

502976

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2020	.	
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	.	

The Committee on Appropriations (Diaz) recommended the following:

Senate Amendment to Amendment (390288) (with title amendment)

Delete line 832
and insert:
school district. Nothing in this provision shall operate to require a charter school to contract with the school district for the provision of a sworn law enforcement school resource officer or a sworn law enforcement school safety officer. At the election of the charter school, the charter school may waive the

502976

school district's obligation to assign a sworn law enforcement school resource officer or sworn law enforcement school safety officer, and the charter school may retain its safe school allocation funds.

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

And the title is amended as follows:

Delete line 1096

and insert:

requirements to changes made by the act; clarifying requirements for the assignment of safe school officers at charter schools; amending s.

139528

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2020	.	
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	.	
	.	

The Committee on Appropriations (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete lines 258 - 270

and insert:

2. In addition to the membership requirements of subparagraph 1., the commission membership must be expanded to include five additional members, who must be appointed by May 30, 2020. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint one additional member selected from among the state's actively

139528

serving district school superintendents, school principals, and classroom teachers. The additional members must also include the president of the Fort Lauderdale/Broward NAACP or his or her designee and the president of the Urban League of Broward County or his or her designee. Thereafter, to the extent possible, future appointments to fill vacancies or replace members of the commission must give consideration to achieving an equal balance of school district, law enforcement, and health care professional representation and to reflecting the cultural diversity of this state.

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

And the title is amended as follows:

Delete line 17

and insert:

as of a certain date; requiring that the membership of the Marjory Stoneman Douglas High School Public Safety Commission be expanded by a specified date; requiring the Governor, the President of the Senate, and the Speaker of the House of Representatives to appoint specified additional members; requiring that the additional members include the executives of certain organizations or their designees; requiring consideration of

730920

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Thurston) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 573 and 574
insert:
(o) Criteria for assigning a student to a school-based intervention program. A student's participation in a school-based intervention program may not be entered into the Juvenile Justice Information System Prevention Web.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======

730920

And the directory clause is amended as follows:

Delete line 547

and insert:

amended, and paragraphs (n) and (o) of subsection (2), paragraph (d) of

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

And the title is amended as follows:

Delete line 58

and insert:

criteria; requiring code of student conduct policies to contain school-based intervention program criteria; prohibiting the entry of a student's participation in a school-based intervention program into the Juvenile Justice Information System Prevention Web; specifying requirements applicable to

593112

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Thurston) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 573 and 574
insert:
(o) Criteria for assigning a student to a school-based intervention program. A student's participation in a school-based intervention program shall not be entered into the Juvenile Justice Information System Prevention Web.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======

593112

And the directory clause is amended as follows:

Delete line 547

and insert:

amended, and paragraphs (n) and (o) of subsection (2), paragraph (d) of

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

And the title is amended as follows:

Delete line 58

and insert:

criteria; requiring such policies to contain certain school-based intervention program criteria; prohibiting the entry of a student's participation in a school-based intervention program into the Juvenile Justice Information System Prevention Web; specifying requirements applicable to

By the Committees on Infrastructure and Security; and Education

596-03025A-20 20207040c1

A bill to be entitled

An act relating to implementation of the recommendations of the Marjory Stoneman Douglas High School Public Safety Commission; amending s. 30.15, F.S.; authorizing a sheriff to contract for services to provide training under the Coach Aaron Feis Guardian Program; revising training and evaluation requirements for school guardians; expanding the program to include the training and certification of school security guards; requiring the review and approval of evaluations and results; amending s. 943.082, F.S.; adding penalties for persons who knowingly submit false information to a law enforcement agency; amending s. 943.687, F.S.; requiring the addition of three members to the Marjory Stoneman Douglas High School Public Safety Commission as of a certain date; requiring consideration of balanced representation; amending s. 985.12, F.S.; requiring certain state agencies and state attorneys to cooperate in the oversight and enforcement of school-based diversion programs; requiring that law enforcement officers have access to a certain database; amending s. 1001.11, F.S.; specifying legislative intent; assigning the Commissioner of Education specified duties regarding education-related school safety requirements; amending s. 1001.212, F.S.; revising the training, consultation, and coordination responsibilities of the Office of Safe Schools; conforming and requiring evaluation and

Florida Senate - 2020 CS for SB 7040

596-03025A-20 20207040c1

coordination of incident reporting requirements; requiring the office to maintain a directory of programs; requiring the office to develop a model plan; amending s. 1002.33, F.S.; conforming safety requirements to changes made by the act; amending s. 1002.421, F.S.; requiring private schools comply with certain statutory provision related to criteria for assigning a student to a civil citation or similar prearrest diversion program; amending s. 1003.5716, F.S.; revising individual education plan requirements for certain students to include a statement of expectations for the transition of behavioral health services needed after high school graduation; requiring parent, student, and agency roles and responsibilities to be specified in a course of action transition plan, as applicable; amending s. 1004.44, F.S.; requiring the Louis de la Parte Florida Mental Health Institute to consult with specified state agencies and convene a workgroup to advise those agencies on the implementation of specified mental health recommendations; requiring the institute to submit a report with administrative and legislative policy recommendations to the Governor and the Legislature by a specified date; authorizing the institute to submit additional reports and recommendations as needed and requested; amending s. 1006.07, F.S.; requiring code of student conduct policies to contain prearrest diversion program criteria; specifying requirements applicable to

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

emergency drill policies and procedures, in accordance with State Board of Education rules; requiring the state board to adopt rules in consultation with state and local entities; adding threat assessment team membership, training, and procedural requirements; incorporating additional discipline and behavioral incident reports within school safety incident reporting requirements; requiring district school boards to adopt school district emergency event family reunification policies and plans; requiring school-based emergency event family reunification plans to be consistent with school board policy and the school district plan; requiring plans to address specified requirements within the framework of model policies and plans identified by the office; amending s. 1006.09, F.S.; requiring school principals to use a specified system to report school safety incidents; amending s. 1006.12, F.S.; requiring school safety officers to complete specified training to improve knowledge and skills as first responders to certain incidents; specifying county sheriffs' responsibility for specified training required for school security guards; requiring certain school security guards to meet district background screening requirements and qualification requirements; conforming notification requirements to changes made by the act; amending s. 1006.13, F.S.; authorizing district school boards to assign students to certain diversion programs as options within zero-tolerance policies; amending s.

1006.1493, F.S.; revising components that must be assessed by the Florida Safe Schools Assessment Tool to include policies and procedures to prepare for and respond to natural or manmade disasters or emergencies; amending s. 1011.62, F.S.; revising requirements that must be met before the distribution of the mental health assistance allocation; providing effective dates.

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

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) Assist district school boards and charter school governing boards in complying with s. 1006.12. A sheriff must, at a minimum, provide access to ~~a~~ Coach Aaron Feis Guardian Program training to aid in the prevention or abatement of active assailant incidents on school premises, as required under this paragraph. Persons certified as Feis guardian program certified school guardians or Feis guardian program certified school security guards pursuant to this paragraph do not have ~~no~~ authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.

1.a. If a local school board has voted by a majority to implement a Feis guardian program, the sheriff in that county

shall establish a Feis guardian program to provide training, pursuant to subparagraph 2., to school district or charter school employees directly; through a contract with an entity selected by the local sheriff, provided that the local sheriff oversees, supervises, and certifies all aspects of the contract governing the Feis guardian program for the local jurisdiction; ~~, either directly or~~ through a contract with another sheriff's office that has established a Feis guardian program; or through any combination thereof. To facilitate effective training and emergency response in the event of an active assailant situation, a sheriff who contracts with one or more county sheriffs to provide Feis guardian program training and certification for the local school district and charter schools within its county jurisdiction shall notify, in writing, the local district school superintendent and charter school administrators of all county-specific protocols incorporated into the contracted Feis guardian program training and certification requirements.

b. A charter school governing board in a school district that has not voted, or has declined, to implement a Feis guardian program may request the sheriff in the county to establish a Feis guardian program for the purpose of training the charter school employees. If the county sheriff denies the request, the charter school governing board may contract with a sheriff that has established a Feis guardian program to provide such training. The charter school governing board must notify, in writing, the superintendent and the sheriff in the charter school's county of the contract prior to its execution.

c. The sheriff conducting the Feis guardian program

training pursuant to subparagraph 2. shall ~~will~~ be reimbursed by the Department of Education for screening-related and training-related costs for Feis guardian program certified school guardians and Feis guardian program certified school security guards as provided in s. 1006.12(3) and (4), respectively, and for providing a one-time stipend of $500 to each Feis guardian program certified school guardian who participates in the Feis ~~school~~ guardian program as an employee of a school district or charter school.

2. A sheriff who establishes a Feis guardian training program shall consult with the Department of Law Enforcement on programmatic guiding principles, practices, and resources, and shall certify, without the power of arrest, Feis guardian program certified ~~as~~ school guardians~~, without the power of arrest, school employees,~~ as specified in s. 1006.12(3) and Feis guardian program school security guards as specified in s. 1006.12(4)~~,~~ who:

a. Hold a valid license issued under s. 790.06, applicable to district or school employees serving as Feis guardian program certified school guardians pursuant to s. 1006.12(3); or hold a valid Class "D" and Class "G" license issued under chapter 493, applicable to individuals contracted to serve as Feis guardian program certified school security guards under s. 1006.12(4).

b. Complete a 144-hour training program, consisting of 12 hours of certified nationally recognized diversity training and 132 total hours of comprehensive firearm safety and proficiency training, conducted by Criminal Justice Standards and Training Commission-certified instructors who hold active instructional certifications, which must include:

(I) 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.

(II) Sixteen hours of instruction in precision pistol. Training must include night and low-light shooting conditions.

(III) Eight hours of discretionary shooting instruction using state-of-the-art simulator exercises.

(IV) Eight hours of instruction in active shooter or assailant scenarios.

(V) Eight hours of instruction in defensive tactics.

(VI) Twelve hours of instruction in legal issues.

c. Submit to and pass a psychological evaluation administered by a licensed professional ~~psychologist licensed under chapter 490 and designated by the Department of Law Enforcement~~ and submit the results of the evaluation to the sheriff's office. The sheriff's office must review and approve the results of each applicant's psychological evaluation before accepting the applicant into the Feis guardian program. The Department of Law Enforcement is authorized to provide the sheriff's office with mental health and substance abuse data for compliance with this paragraph.

d. Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455 and the sheriff's office. The sheriff's office must review and approve the results of each applicant's drug tests before accepting the applicant into the Feis guardian program.

e. Successfully complete ongoing training conducted by a Criminal Justice Standards and Training Commission-certified instructor who holds an active instructional certification, weapon inspection, and firearm qualification on at least an annual basis, as required by the sheriff's office.

The sheriff who conducts the Feis guardian program training pursuant to this paragraph shall issue a Feis ~~school~~ guardian program certificate to individuals who meet the requirements of this section to the satisfaction of the sheriff, and shall maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each Feis guardian program certified school guardian and Feis guardian program certified school security guard certified by the sheriff. An individual who is certified under this paragraph may serve as a Feis guardian program certified school guardian under s. 1006.12(3) or a Feis guardian program certified school security guard under s. 1006.12(4) only if he or she is appointed by the applicable district school superintendent ~~school district superintendent~~ or charter school administrator ~~principal~~.

Section 2. Effective October 1, 2020, paragraph (c) is added to subsection (2) of section 943.082, Florida Statutes, to read:

943.082 School Safety Awareness Program.—

(2) The reporting tool must notify the reporting party of the following information:

(c) That, if following investigation, it is determined that a person knowingly submitted a false tip through FortifyFL, the

IP address of the device on which the tip was submitted will be provided to law enforcement agencies for further investigation and the reporting party may be subject to criminal penalties under s. 837.05. In all other circumstances, unless the reporting party has chosen to disclose his or her identity, the report must remain anonymous.

Section 3. Paragraph (a) of subsection (2) of section 943.687, Florida Statutes, is amended to read:

943.687 Marjory Stoneman Douglas High School Public Safety Commission.—

(2)(a)1. The commission shall convene no later than June 1, 2018, and shall be composed of 16 members. Five members shall be appointed by the President of the Senate, five members shall be appointed by the Speaker of the House of Representatives, and five members shall be appointed by the Governor. From the members of the commission, the Governor shall appoint the chair. Appointments must be made by April 30, 2018. The Commissioner of the Department of Law Enforcement shall serve as a member of the commission. The Secretary of Children and Families, the Secretary of Juvenile Justice, the Secretary of Health Care Administration, and the Commissioner of Education shall serve as ex officio, nonvoting members of the commission. Members shall serve at the pleasure of the officer who appointed the member. A vacancy on the commission shall be filled in the same manner as the original appointment.

2. In addition to the membership requirements of subparagraph 1., beginning June 1, 2020, the commission shall include three additional members selected from among the state's actively serving district school superintendents, school

principals, and classroom teachers. The additional members must be appointed by May 30, 2020, one each by the Governor, the President of the Senate, and the Speaker of the House of Representatives. Thereafter, to the extent possible, future appointments to fill vacancies or replace members of the commission must give consideration to achieving an equal balance of school district, law enforcement, and health care professional representation which reflects the cultural diversity of the state.

Section 4. Paragraphs (c) and (f) of subsection (2) of section 985.12, Florida Statutes, are amended to read:

985.12 Civil citation or similar prearrest diversion programs.—

(2) JUDICIAL CIRCUIT CIVIL CITATION OR SIMILAR PREARREST DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

(c) The state attorney of each circuit shall operate a civil citation or similar prearrest diversion program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent civil citation or similar prearrest diversion program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the civil citation or similar prearrest diversion program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the civil citation or similar prearrest diversion program developed by the circuit, the operator of the

independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program. In cooperation with the Department of Education pursuant to s. 1001.212, the department and the state attorney of each judicial circuit shall monitor and enforce compliance with school-based diversion program requirements.

(f) Each civil citation or similar prearrest diversion program shall enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program. Beginning in fiscal year 2021-2022, law enforcement officers must have field access to the Juvenile Justice Information System Prevention Web.

Section 5. Subsection (9) of section 1001.11, Florida Statutes, is amended to read:

1001.11 Commissioner of Education; other duties.—

(9) With the intent of ensuring safe learning and teaching environments, the commissioner shall oversee compliance with education-related health, ~~the~~ safety, welfare, and security requirements of law ~~the Marjory Stoneman Douglas High School Public Safety Act, chapter 2018-3, Laws of Florida,~~ by school districts; district school superintendents; ~~and~~ public schools, including charter schools; and other entities or constituencies as may be applicable. The commissioner shall ~~must~~ facilitate public and nonpublic school compliance to the maximum extent provided under law, identify incidents of material noncompliance, and impose or recommend to the State Board of Education, the Governor, or the Legislature enforcement and sanctioning actions pursuant to s. 1001.42, s. 1001.51, chapter 1002, and s. 1008.32, and other authority granted under law. For

purposes of this subsection, s. 1001.42(13)(b), and s. 1001.51(12)(b), the duties assigned to a district school superintendent apply to charter school administrative personnel as defined in s. 1012.01(3), and charter school governing boards shall designate at least one administrator to be responsible for such duties. The duties assigned to a district school board apply to a charter school governing board.

Section 6. Present subsections (14) and (15) of section 1001.212, Florida Statutes, are redesignated as subsections (16) and (17), respectively, new subsections (14) and (15) are added to that section, and subsections (2), (4), (6), and (8) of that section are 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:

(2) Provide ongoing professional development opportunities to school district and charter school personnel.

(4) Develop and implement a School Safety Specialist Training Program for school safety specialists appointed pursuant to s. 1006.07(6). The office shall develop the training program, which shall be based on national and state best practices on school safety and security and must include active shooter training. Training must also include information about federal and state laws regarding education records, medical

records, data privacy, and incident reporting requirements, particularly with respect to behavioral threat assessment and emergency planning and response procedures. The office shall develop training modules in traditional or online formats. A school safety specialist certificate of completion shall be awarded to a school safety specialist who satisfactorily completes the training required by rules of the office.

(6) Coordinate with the Department of Law Enforcement to provide a centralized integrated data repository, known as the Florida Schools Safety Portal, 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 August 1, 2019~~:

(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) 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 Criminal Justice Information Services security policy, where applicable.

(8) Oversee, facilitate, and coordinate district and school compliance with school safety incident reporting requirements in accordance with rules adopted by the state board enacting the school safety incident reporting requirements of this subsection, s. 1006.07(9), and other statutory safety incident reporting requirements. The office shall:

(a) Provide technical assistance to school districts and charter school governing boards and administrators for school ~~environmental~~ safety incident reporting as required under s. 1006.07(9).

(b) ~~The office shall~~ Collect data through school ~~environmental~~ safety incident reports on incidents involving any person which occur on school premises, on school transportation, and at off-campus, school-sponsored events.

(c) Review and evaluate safety incident reports of each ~~The office shall review and evaluate~~ school district and charter school and other entities, as may be required by law, ~~reports~~ to ensure compliance with reporting requirements. The office shall timely notify the commissioner of all incidents of material noncompliance for purposes of invoking the commissioner's responsibilities provided under s. 1001.11(9). Upon notification by the commissioner ~~department~~ that a superintendent or charter school administrator has, based on clear and convincing evidence, failed to comply with the requirements of s. 1006.07(9), the district school board or charter school governing board, as applicable, 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, pending demonstration of full compliance.

(14) Maintain a current directory of public and private school-based diversion programs and cooperate with each judicial circuit and the Department of Juvenile Justice to facilitate their efforts to monitor and enforce each governing body's compliance with s. 985.12.

(15) Develop, in coordination with the Division of Emergency Management, other federal, state, and local law enforcement agencies, fire and rescue agencies, and first responder agencies, a model emergency event family reunification plan for use by child care facilities, public K-12 schools, and public postsecondary institutions that are closed or unexpectedly evacuated due to natural or manmade disasters or emergencies.

Section 7. 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 demonstrate and certify in its contract, and if necessary through addendum to its contract, the charter school's ~~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.

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.

15. Section 1006.07(4), relating to emergency drills and emergency procedures.

16. Section 1006.07(2)(n), relating to criteria for assigning a student to a civil citation or similar prearrest diversion program.

Section 8. Paragraph (r) is added to subsection (1) of section 1002.421, Florida Statutes to read:

1002.421 State school choice scholarship program accountability and oversight.—

(1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private school participating in an educational scholarship program established pursuant to this chapter must be a private school as defined in s. 1002.01(2) in this state, be registered, and be in compliance with all requirements of this section in addition to private school requirements outlined in s. 1002.42, specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools, and must:

(r) Comply with section 1006.07(2)(n), Florida Statutes.

The department shall suspend the payment of funds to a private school that knowingly fails to comply with this subsection, and shall prohibit the school from enrolling new scholarship students, for 1 fiscal year and until the school complies. If a

private school fails to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (q), the commissioner may determine that the private school is ineligible to participate in a scholarship program.

Section 9. Paragraph (d) is added to subsection (2) of section 1003.5716, Florida Statutes, to read:

1003.5716 Transition to postsecondary education and career opportunities.—All students with disabilities who are 3 years of age to 21 years of age have the right to a free, appropriate public education. As used in this section, the term "IEP" means individual education plan.

(2) Beginning not later than the first IEP to be in effect when the student attains the age of 16, or younger if determined appropriate by the parent and the IEP team, the IEP must include the following statements that must be updated annually:

(d) A statement of post-high school performance expectations which includes a proposed transition plan that facilitates continuity of care and coordination of any behavioral health services needed to assist the student in reaching those expectations. The statement must also specify parent, student, and agency roles and responsibilities pertaining to the provision and funding of specified transition services, as applicable.

Section 10. Subsection (5) is added to section 1004.44, Florida Statutes, to read:

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

(5) In consultation with the Department of Children and Families, the Department of Juvenile Justice, and the Department of Education, the institute shall convene a workgroup of practitioners and experts to review, evaluate, and provide implementation guidance on the mental health-related findings and recommendations of the Marjory Stoneman Douglas High School Public Safety Commission, as approved in reports submitted pursuant to s. 943.687. The workgroup shall analyze, evaluate, and identify regulatory or legislative actions necessary to facilitate implementation of each recommendation. By August 1, 2020, the institute shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an initial summary report of activities, specific policy and budget recommendations, including draft legislation and associated fiscal impact statements, and other information and policy or administrative recommendations to improve the state's mental health system of care. The institute must continue to monitor commission activities and coordinate with agency partners to advise them on implementation activities, and may submit subsequent reports and recommendations on an annual basis or as requested. This subsection shall expire July 1, 2024.

Section 11. Paragraph (a) of subsection (4), paragraph (a) of subsection (6), paragraph (a) of subsection (7), and subsection (9) of section 1006.07, Florida Statutes, are amended, and paragraph (n) of subsection (2), paragraph (d) of subsection (4), and subsection (10) are 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 attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) CODE OF STUDENT CONDUCT.—Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(n) Criteria for assigning a student to a civil citation or similar prearrest diversion program that is an alternative to expulsion or referral to law enforcement agencies. All civil citation or similar prearrest diversion programs must comply with s. 985.12.

(4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

(a) Formulate and prescribe policies and procedures, in consultation with the appropriate public safety agencies, for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, active shooter and hostage situations, and bomb threats, for all students and faculty at all public schools of the district composed ~~comprised~~ of grades

K-12, pursuant to state board rule. Drills for active shooter and hostage situations shall be conducted in accordance with developmentally appropriate and age-appropriate procedures, as specified in state board rules ~~at least as often as other emergency drills~~. Law enforcement officers responsible for responding to the school in the event of an active assailant emergency, as determined necessary by the sheriff in coordination with the district's school safety specialist, must be physically present on campus and directly involved in the execution of active assailant emergency drills. District school board policies shall include commonly used alarm system responses for specific types of emergencies and verification by each school that drills have been provided as required by law, state board rule, and fire protection codes. The emergency response policy shall identify the individuals responsible for contacting the primary emergency response agency and the emergency response agency that is responsible for notifying the school district for each type of emergency. The state board shall refer to recommendations provided in reports published pursuant to s. 943.687 for guidance and, by August 1, 2020, consult with state and local constituencies to adopt rules applicable to the requirements of this subsection which, at a minimum, define "emergency drill," "active threat," and "after-action report," and must establish minimum emergency drill policies and procedures related to the timing, frequency, participation, training, notification, accommodations, and responses to threat situations by incident type, school level, school type, and student and school characteristics. Such rules must require all types of emergency drills to be conducted no

less frequently than on an annual school year basis.

(d) Consistent with subsection (10), as a component of emergency procedures, each district school board and charter school governing board must adopt, in coordination with local law enforcement agencies, an emergency event family reunification plan to reunite students and employees with their families in the event of a mass casualty or other emergency event situation.

(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 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 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 to 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, by October 1 of each year, conduct a school security risk assessment at each public school using the Florida Safe Schools 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. 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.

(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 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(12).

(a) A threat assessment team shall include a sworn law enforcement officer who has undergone threat assessment training identified by the Office of Safe Schools pursuant to s. 1001.212, and persons with expertise in counseling, instruction, and school administration~~, and law enforcement~~. All required members of the threat assessment team must be involved in the threat assessment process, from start to finish, including the determination of the final disposition decision. 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.

(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. For purposes of s. 1001.212(8) and this subsection, incidents related to school safety and discipline include incidents reported pursuant to ss. 1006.09, 1006.13, 1006.135, 1006.147, and 1006.148. 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 reporting ~~report~~.

(10) EMERGENCY EVENT FAMILY REUNIFICATION POLICIES AND PLANS.—By August 1, 2021, each district school board shall adopt a school district emergency event family reunification policy establishing elements and requirements for a school district emergency event family reunification plan and individual school-based emergency event family reunification plans for the purpose of reuniting students and employees with their families in the event of a mass casualty or other emergency event situation.

(a) School district policies and plans must be coordinated with the county sheriff and local law enforcement. School-based

plans must be consistent with school board policy and the school district plan. The school board is encouraged to apply model mass casualty death notification and reunification policies and practices referenced in reports published pursuant to s. 943.687 and as developed by the Office of Safe Schools.

(b) Minimally, plans must identify potential reunification sites and ensure a unified command at each site, identify equipment needs, provide multiple methods of communication with family members of students and staff, address training for employees, and provide multiple methods to aid law enforcement in identification of students and staff, including written backup documents.

Section 12. Subsection (6) of section 1006.09, Florida Statutes, is amended to read:

1006.09 Duties of school principal relating to student discipline and school safety.—

(6) Each school principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the department through the School Environmental Safety Incident Reporting (SESIR) System. The school principal must develop a plan to verify the accuracy of reported incidents.

Section 13. 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 district school superintendent ~~school district superintendent~~ shall partner with law enforcement agencies or security agencies to establish or

assign one or more safe-school officers at each school facility within the district, including charter schools. A district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options available under this section. The school district may implement one or more ~~any combination~~ of the options specified in subsections (1)-(4) to best meet the needs of the school district and charter schools.

(1) SWORN LAW ENFORCEMENT SCHOOL RESOURCE OFFICER.—A school district may establish school resource officer programs through a cooperative agreement with law enforcement agencies.

(a) Sworn law enforcement 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 sworn law enforcement school resource officer.

(b) Sworn law enforcement 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 sworn law enforcement school resource officer which are part of the regular instructional program of the school shall be under the direction of the school principal.

(c) Sworn law enforcement school resource officers shall

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) SWORN LAW ENFORCEMENT SCHOOL SAFETY OFFICER.—A school district may commission one or more sworn law enforcement 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 sworn law enforcement school safety officers.

(a) Sworn law enforcement 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 sworn law enforcement school safety officer has and shall exercise the power to make arrests for violations of law on district school board property or on property owned or leased by a charter school under the charter contract, as applicable, 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 sworn law enforcement 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 sworn law enforcement school safety officer's salary may be paid jointly by the district school board and the law enforcement agency, as mutually agreed to.

(d) Sworn law enforcement school safety officers shall complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention. The training must 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.

(3) FEIS GUARDIAN PROGRAM CERTIFIED SCHOOL GUARDIAN.—At the school district's or the charter school governing board's discretion, as applicable, pursuant to s. 30.15, a school district or charter school governing board may participate in the Coach Aaron Feis Guardian Program to meet the requirement of establishing a safe-school officer. The following individuals may serve as a Feis guardian program certified school guardian, in support of school-sanctioned activities for purposes of s. 790.115, 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 Feis

guardian program certified school guardian in addition to his or her official job duties; or

(b) An employee of a school district or a charter school who is hired for the specific purpose of serving as a Feis guardian program certified school guardian.

(4) FEIS GUARDIAN PROGRAM CERTIFIED SCHOOL SECURITY GUARD.—A school district or charter school governing board may contract with a security agency as defined in s. 493.6101(18) to employ as a Feis guardian program certified school security guard an individual who holds a Class "D" and Class "G" license pursuant to chapter 493, provided the following training and contractual conditions are met:

(a) An individual who serves as a Feis guardian program certified school security guard, for purposes of satisfying the requirements of this section, must:

1. Demonstrate satisfactory completion of all training program requirements of the Coach Aaron Feis Guardian Program, as provided and certified by a county sheriff, ~~144 hours of required training~~ pursuant to s. 30.15(1)(k)2.

2. Submit to and pass a psychological evaluation administered by a licensed professional ~~psychologist licensed under chapter 490 and designated by the Department of Law Enforcement~~ and submit the results of the evaluation to the sheriff's office~~, school district, or charter school governing board, as applicable~~. The sheriff's office must review and approve the results of each applicant's psychological evaluation before accepting the applicant into the Feis guardian program. The Department of Law Enforcement is authorized to provide the sheriff's office~~, school district, or charter school governing~~

~~board~~ with mental health and substance abuse data for compliance with this paragraph.

3. Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455 and the sheriff's office~~, school district, or charter school governing board, as applicable~~. The sheriff's office must review and approve the results of each applicant's drug tests before accepting the applicant into the Feis guardian program.

4. Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis, as required by the sheriff's office ~~and provide documentation to the sheriff's office, school district, or charter school governing board, as applicable~~.

(b) The contract between a security agency and a school district or a charter school governing board regarding requirements applicable to Feis guardian program certified school security guards serving in the capacity of a safe-school officer for purposes of satisfying the requirements of this section shall define the county sheriff or sheriffs ~~entity or entities~~ responsible for Feis guardian program training and the responsibilities for maintaining records relating to training, inspection, and firearm qualification; and define conditions, requirements, costs, and responsibilities necessary to satisfy the background screening requirements of paragraph (d).

(c) Feis guardian program certified school security guards serving in the capacity of a safe-school officer pursuant to this subsection are in support of school-sanctioned activities for purposes of s. 790.115, and must aid in the prevention or abatement of active assailant incidents on school premises.

(d) A Feis guardian program certified school security guard serving in the capacity of a safe-school officer pursuant to this subsection is considered to be a "noninstructional contractor" subject to the background screening requirements of ss. 1012.465 and 1012.467, as they apply to each applicable school district or charter school, and these requirements must be satisfied before the Feis guardian program certified school security guard is given access to school grounds.

(5) NOTIFICATION.—The school district superintendent or charter school administrator shall notify the county sheriff and the Office of Safe Schools immediately after, but no later than 72 hours after:

(a) A safe-school officer is dismissed for misconduct or is otherwise disciplined.

(b) A safe-school officer discharges his or her firearm in the exercise of the safe-school officer's duties, other than for training purposes.

(6) EXEMPTION.—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.

If a district school board, through its adopted policies, procedures, or actions, denies a charter school access to any

safe-school officer options pursuant to this section, the school district must assign a sworn law enforcement school resource officer or sworn law enforcement school safety officer to the charter school. Under such circumstances, the charter school's share of the costs of the sworn law enforcement school resource officer or sworn law enforcement school safety officer may not exceed the safe school allocation funds provided to the charter school pursuant to s. 1011.62(15) and shall be retained by the school district.

Section 14. Subsection (3) of section 1006.13, Florida Statutes, is amended to read:

1006.13 Policy of zero tolerance for crime and victimization.—

(3) Zero-tolerance policies must require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred to the criminal justice or juvenile justice system.

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school.

(b) Making a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity.

District school boards may assign the student to a school-based diversion program pursuant to s. 985.12 ~~disciplinary program~~ for

the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a school-based diversion program pursuant to s. 985.12 ~~disciplinary program or second chance school~~ if the request for modification is in writing and it is determined to be in the best interest of the student and the school system. If a student committing any of the offenses in this subsection is a student who has a disability, the district school board shall comply with applicable State Board of Education rules.

Section 15. Paragraph (a) of subsection (2) of section 1006.1493, Florida Statutes, is amended to read:

1006.1493 Florida Safe Schools Assessment Tool.—

(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 and;~~.~~

9. Policies and procedures to prepare for and respond to natural or manmade disasters or emergencies, including plans to reunite students and employees with families after a school is closed or unexpectedly evacuated due to such disasters or emergencies.

Section 16. Effective July 1, 2020, subsection (16) 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:

(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; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services. These funds shall be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district shall 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. Charter schools that submit a plan separate from the

school district are entitled to a proportionate share of district funding. 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.

(a) Before the distribution of the allocation:

1. The school district shall ~~must~~ develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval. The ~~This~~ plan, which must include input from school and community stakeholders, applies to all district schools, including charter schools, unless a charter school elects to submit a plan independently from the school district pursuant to subparagraph 2.

2. A charter school may 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.

(b) The plans required under paragraph (a) must be focused on a multitiered system of supports to deliver 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 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, certified school counselors, school psychologists, school social workers, and other licensed mental health professionals. The plan also must establish ~~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.

2. Contracts or interagency agreements with one or more 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.

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.

4. Mental health policies and procedures that implement and support all of the following elements:

a. Universal supports to promote psychological well-being and safe and supportive environments.

b. Evidence-based strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health problems, depression, anxiety disorders, suicidal tendencies, or substance use disorders.

c.~~5.~~ Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders; provide~~, to improve the provision of~~ early intervention services;~~,~~ and ~~to~~ assist students in dealing with trauma and violence.

d. Methods for responding to a student with suicidal ideation, including training in suicide risk assessment and the use of suicide awareness, prevention, and screening instruments developed under s. 1012.583; adoption of guidelines for informing parents of suicide risk; and implementation of board policies for initiating involuntary examination of students at risk of suicide.

e. A school crisis response plan that includes strategies

for the prevention of, preparation for, response to, and recovery from a range of school crises. The plan must establish or coordinate the implementation of district-level and school-level crisis response teams whose membership includes, but is not limited to, representatives of school administration and school-based mental health service providers.

(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) By September 30 of each year ~~Beginning September 30, 2019, and annually by September 30 thereafter~~, each school district shall submit its district report to the department. By November 1 of each year, the department shall submit a state summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on ~~Department of Education a report on its~~ program outcomes and expenditures for the previous fiscal year. The school district report must include program outcomes and expenditures for all public schools in the district, including charter schools that submitted a separate plan. At a minimum, the district and state reports also must ~~that, at a minimum, must~~ include school district-level and school-level, including charter schools, information, including multiple-year trend data, when available, for each of ~~the number of each of~~ the following indicators:

1. The number of students who receive screenings or assessments.

2. The number of students who are referred to either school-based or community-based providers for services or assistance.

3. The number of students who receive either school-based or community-based interventions, services, or assistance.

4. The number of school-based and community-based mental health providers, including licensure type, paid for from funds provided through the allocation.

5. The number and ratio to students of school social workers, school psychologists, and certified school counselors employed by the district or charter school and the total number of licensed mental health professionals directly employed by the district or charter school.

6. Contract-based collaborative efforts or partnerships with community mental health programs, agencies, or providers.

Section 17. Except as otherwise expressly provided in this 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)

2/20/20
Meeting Date

SB 7040
Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Bethany Swonson

Job Title Deputy Chief of Staff

Address 325 W Gaines St.
Street

Tallahassee FL 32399
City *State* *Zip*

Phone 850 621 2558

Email Bethany.Swonson@FLDOE.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Dept. of Education

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)

2/20/2020
Meeting Date

7040
Bill Number (if applicable)

Topic MSD School Safety

Amendment Barcode (if applicable)

Name Christian Camara

Job Title

Address 8585 SW 124 Ave
Street
Miami FL 33183
City *State* *Zip*

Phone 305 214 6208

Email Christian@CamaraConsultantsFL.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Charter School Alliance

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)

2-19-20
Meeting Date

7040
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic _____

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr
Street

Largo FL. 33773
City *State* *Zip*

Phone _____

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving Families

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:	SPB 7066
INTRODUCER:	Appropriations Committee
SUBJECT:	Licensure Fees
DATE:	February 21, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKnight	Kynoch		**AP Submitted as Comm. Bill/Fav**

I. Summary:

SPB 7066, which is linked to CS/SB 512, requires nonembryonic stem cell banks (NSCBs) licensed as health care clinics to pay all fees associated with licensure, registration and inspection under part X of chapter 400 and part II of chapter 408, Florida Statutes.

This bill authorizes new state fees, requiring a two-thirds vote of the membership of the Senate. See Section IV.

The bill will have a significant negative fiscal impact on the Agency for Health Care Administration's (AHCA) expenditures that will be offset by the significant positive fiscal impact to the AHCA's revenues from the licensure, registration, and inspection fees collected from NSCBs under the bill See Section V.

The bill takes effect on the same date that CS/SB 512 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

The Florida Constitution

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.[1] For purposes of this requirement, a "fee" is any charge or payment required by law, including any fee or charge for services and fees or costs for licenses and to "raise" a fee or tax means to:[2]

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;

[1] Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.
[2] Fla. Const. art. VII, s. 19(d).

- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.[3]

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.[4]

Health Care Clinics

The Health Care Clinic Act[5] provides the Agency for Health Care Administration (AHCA) with licensing and regulatory authority to provide standards and oversite for health care clinics.[6] A clinic is defined as an entity where health care services are provided and which tenders charges for reimbursement for such services. Numerous exceptions to licensure exist.[7] The AHCA interprets the scope of its regulatory powers to solely include entities that bill third parties, such as Medicare, Medicaid, and insurance companies. Entities that provide health care services and accept "cash only" for services are excluded from the definition of "clinic" and are not subject to licensure or regulation by the AHCA.

Nonembryonic Stem Cell Banks

CS/SB 512 requires the AHCA to license establishments meeting the definition of nonembryonic stem cell banks (NSCBs) as health care clinics. Hospitals, ambulatory surgical centers, and clinical facilities affiliated with an accredited medical school that provides training to medical students, residents, or fellows, are exempt from licensure under CS/SB 512.

CS/SB 512 defines a NSCB as a publicly or privately owned establishment that does any of the following:

- Collects and stores human nonembryonic stem cells for use in a product or patient-specific medical administration.
- Provides patient-specific health care services using human nonembryonic stem cells.
- Advertises human nonembryonic stem cell services, including, but not limited to, collection, manufacturing, storage, dispensing, use, or purported use of human nonembryonic stem cells or products containing human nonembryonic stem cells, which:
  - Have not been approved by the U.S. Food and Drug Administration (FDA); or
  - Are not the subject of clinical trials approved by the FDA; and
  - Are intended to diagnose, cure, mitigate, treat, provide therapy for, or prevent an injury or a disease.
- Performs any procedure that is intended to:

[3] Fla. Const. art. VII, s. 19(e).
[4] Fla. Const. art. VII s. 19(c).
[5] Part X of ch. 400, F.S.
[6] Section 400.990, F.S.
[7] Section 400.9905(4). F.S.

  - Collect or store human nonembryonic stem cells for any purpose; or
  - Diagnose, cure, mitigate, treat, provide therapy for, or prevent an injury or a disease with the use or purported use of human nonembryonic stem cells or any product containing human nonembryonic stem cells which has not been approved by the FDA or is not the subject of a clinical trial approved by the FDA.
- Compounds human nonembryonic stem cells from human nonembryonic cells or tissue into products by combining, mixing, or altering the ingredients of one or more drugs or products to create another drug or product.
- Manufactures, through recovery, processing, manipulation, enzymatic digestion, mechanical disruption, or a similar process, human nonembryonic stem cells from human nonembryonic cells or tissue into undifferentiated human nonembryonic stem cells, causing the cells to lose their original structural function so that the nonembryonic stem cells may be differentiated into specialized cell types.
- Dispenses human nonembryonic stem cells and products containing nonembryonic stem cells to any of the following, for a specific patient pursuant to a valid prescription from a licensed health care practitioner authorized within the scope of his or her license to prescribe and administer human nonembryonic stem cells:
  - A pharmacy permitted under ch. 465, F.S.;
  - A health care practitioner with privileges to practice at nonembryonic stem cell banks; or
  - A health care practitioner's office, a health care facility, or a treatment setting where the health care practitioner has privileges to practice, for office use.

III. Effect of Proposed Changes:

The bill, which is linked to CS/SB 512, requires nonembryonic stem cell banks licensed as health care clinics to pay all fees associated with licensure, registration and inspection under part X of ch. 400 and part II of ch. 408, F.S.

The bill takes effect on the same date that CS/SB 512 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes 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:

Article VII, s. 19 of the State Constitution requires that a new state tax or fee, as well as an increased state tax or fee, be approved by two-thirds of the membership of each house of the Legislature and be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1) of the State Constitution defines "fee" to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."

The bill requires nonembryonic stem cell banks (NSCBs) licensed as health care clinics to pay all fees associated with licensure, registration, and inspection under part X of ch. 400 and part II of ch. 408, F.S. These fees include a licensure fee not to exceed $2,000 authorized in s. 400.9925, F.S., and a biennial assessment of $300 pursuant to s. 408.033, F.S. These fees are existing statutory fees that are not being increased; however, the bill requires NSCBs to pay all fees associated with licensure, registration, and inspection.

It is unclear if Article VII, s. 19 applies to these provisions of the bill. As such, the State Constitution may require that the fees be passed in a separate bill by a two-thirds vote of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

SPB 7066 requires nonembryonic stem cell banks (NSCBs) licensed as health care clinics to pay all fees associated with licensure, registration and inspection under part X of ch. 400 and part II of ch. 408, F.S. These fees include a licensure fee not to exceed $2,000 authorized in s. 400.9925, F.S., and a biennial assessment of $300 pursuant to s. 408.033, F.S.

The bill's requirements also impose the costs associated with a level 2 background screening for applicants and personnel as required in s. 408.809(1)(e) pursuant to ch. 435 and s. 408.809, F.S., if they are not already required to be screened under a separate professional licensee. The cost for a level 2 background screening with five years of Care Provider Background Screening Clearinghouse (Clearinghouse) retention is $61.25 ($13.25 for the national criminal record check; $24 for the state criminal record check; and $24 paid up front for five years of state fingerprint Clearinghouse retention).

B. Private Sector Impact:

The Agency for Health Care Administration (AHCA) estimates that 500 facilities may require a health care clinic license under CS/SB 512.[8] Licensure fees would be collected every two years from applicants. Estimating 500 additional health care clinics would result in the collection of $500,000 in annual licensure fees, based on spreading initial applicants over a two year period (250 per year). Additionally, the facilities will pay a biennial assessment of $300 that would result in the collection of $150,000 biennially.

The cost for a level 2 background screening with five years of Clearinghouse retention is $61.25. The number of individuals impacted by this requirement is indeterminate.

C. Government Sector Impact:

The AHCA estimates a recurring increase in workload and costs associated with the registration of NSCBs as health care clinics. Specifically, the AHCA estimates the need for three full-time equivalent positions and $285,007 in Fiscal Year 2020-2021, and a recurring $300,250 thereafter, to implement the bill's requirements.[9]

The anticipated increase in expenditures by the AHCA will be offset by the revenues collected from the 500 facilities that the AHCA estimates may require a health care clinic license under CS/SB 512. The AHCA estimates 500 additional health care clinics would result in the collection of $500,000 in annual licensure fees, based on spreading initial applicants over a two year period (250 per year), and $150,000 in biennial assessment fees.[10]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 381.06017 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.

[8] Agency for Health Care Administration, CS/SB 512 Bill Analysis (Feb. 14, 2020) (on file with the Senate Committee on Appropriations).
[9] *Id*.
[10] *Id*.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Appropriations

576-03781A-20 20207066pb

A bill to be entitled

An act relating to licensure fees; amending s. 381.06017, F.S.; requiring certain nonembryonic stem cell banks to pay specified fees; providing a contingent effective date.

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

Section 1. Paragraph (j) is added to subsection (2) of section 381.06017, Florida Statutes, as created by SB 512, to read:

381.06017 Nonembryonic stem cell banks; collection, manufacturing, storage, dispensing, and use of human nonembryonic stem cells.—

(2) DUTIES AND REGISTRATION.—A nonembryonic stem cell bank that advertises, collects, stores, manufactures, dispenses, compounds, uses, or purports to use nonembryonic stem cells or products containing nonembryonic stem cells is deemed a clinic as defined in s. 400.9905 and must comply with all of the following requirements:

(j) Pay all fees associated with health care clinic licensure, registration, and inspection under part X of chapter 400 and part II of chapter 408.

Section 2. This act shall take effect on the same date that SB 512 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

BILL INFORMATION	
BILL NUMBER:	SB 512
BILL TITLE:	Nonembryonic Stem Cells
BILL SPONSOR:	Senator Travis Hutson
EFFECTIVE DATE:	July 1, 2020

COMMITTEES OF REFERENCE
1) Health Policy
2) Appropriations
3) Rules
4)
5)

CURRENT COMMITTEE
Health Policy

SIMILAR BILLS	
BILL NUMBER:	N/A
SPONSOR:	N/A

PREVIOUS LEGISLATION	
BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A

IDENTICAL BILLS	
BILL NUMBER:	HB 313
SPONSOR:	Representative Byron Donalds

LAST ACTION:	N/A

Is this bill part of an agency package?
Y ___ N __X_

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	
LEAD AGENCY ANALYST:	Jack Plagge, Ruby Grantham, Noel Lawrence
ADDITIONAL ANALYST(S):	Ferronda Burke, Jessica Munn
LEGAL ANALYST:	
FISCAL ANALYST:	

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill (CS for SB 512) creates section 381.4017 in order to authorize the administration of nonembryonic stem cells and the use of such cells in health care products. The proposed language authorizes imports of any sterile compound, drug, or other treatment containing nonembryonic stem cells under certain circumstances and outlines requirements for stem cell bank liability insurance, medical director requirements, etc. The bill requires the Agency for Health Care Administration (AHCA) to adopt rules.

The bill requires the agency to license establishments meeting the definition of a nonembryonic stem cell bank (NSCB) as a health care clinic under Chapter 400, Part X, Florida Statutes (F.S.). In order to license NSCBs, the Agency must write rules consistent with the Federal Food, Drug, and Cosmetic Act and Chapter 21 Code of Federal Regulations, parts 1270 and 1271, and include criteria addressing advertising, procedures and protocols, incident reporting, informed consent, and recordkeeping. Only procedures, protocols, and recordkeeping criteria are currently part of health care clinic licensure.

The fiscal impact on the Agency is difficult to determinate. Based on Florida's population and the number of existing providers and physician offices, the Agency estimates up to 500 facilities may require a health care clinic license. The Agency will have recurring and non-recurring costs for increased workload involved with licensing and inspecting NSCBs. The Agency will also incur non-recurring costs for rulemaking and updating Agency systems. Licensure fees paid will offset the Agency's costs.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Regulation of Stem Cells

Stem cells, stem cell therapy and stem cell banks are not currently regulated in the State of Florida. However certain stem cells are regulated under 21 C.F.R. 1271 by the U.S. Food and Drug Administration (FDA). The FDA regulates articles containing or consisting of human cells or tissues that are intended for implantation, transplantation, infusion or transfer into a human recipient as human cells, tissues, or cellular or tissue-based products (HCT/Ps) which are known as stem cells.[1]

The U.S. Center for Biologics Evaluation and Research (CBER) under the FDA regulates HCT/Ps. The FDA has published comprehensive requirements regarding tissue practice, donor screening and donor testing. Regulatory requirements for allogeneic products are more extensive than requirements for autologous products. Autologous stem cell transplants involve transferring healthy stem cells from one part of a person's body to the part of their body with diseased stem cells; allogeneic stem cell transplants involve transferring stem cells from a healthy donor to a recipient needing to replace damaged stem cells.[2, 3]

Stem cells come from different sources and are used in a variety of procedures or applications. Stem cells from bone marrow, umbilical cord blood or peripheral blood are routinely used in transplant procedures to treat patients with cancer and other disorders of the blood and immune system. Stem cells sourced from cord blood for unrelated allogeneic use also are regulated by the FDA; a license is required for distribution of these products. The FDA requires a review process in which manufacturers must show how products will be manufactured so that the FDA can make certain that appropriate steps are taken to assure purity and potency.

The only stem cell-based products that are FDA-approved for use in the United States consist of blood-forming stem cells (hematopoietic progenitor cells) derived from cord blood.[4] Stem cell clinics may advertise stem cell clinical trials without submitting an Investigational New Drug application (IND) and when clinical trials are not conducted under an IND, it means that the FDA has not reviewed the experimental therapy to help make sure that the stem cell therapies are reasonably safe.[5]

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[1] 21 C.F.R. 1271.3(d).
[2] https://www.mayoclinic.org/tests-procedures/autologous-stem-cell-transplant/pyc-20384859
[3] https://www.mayoclinic.org/tests-procedures/allogeneic-stem-cell-transplant/pyc-20384863
[4] U.S. Department of Health and Human Services, Food and Drug Administration, *FDA Warns About Stem Cell Therapies,* https://www.fda.gov/consumers/consumer-updates/fda-warns-about-stem-cell-therapies, Accessed on February 5, 2020
[5] U.S. Department of Health and Human Services, Food and Drug Administration, *FDA Warns About Stem Cell Therapies,* https://www.fda.gov/consumers/consumer-updates/fda-warns-about-stem-cell-therapies, Accessed on February 5, 2020

Potential safety concerns for unproven treatments include:[6]

- Administration site reactions,
- The ability of cells to move from placement sites and change into inappropriate cell types or multiply,
- Failure of cells to work as expected, and
- The growth of tumors.

The FDA has the authority to take administrative and judicial actions, including criminal enforcement, when stem cell products are used in an unapproved manner or when they are processed in ways that are more than minimally manipulated.[7] In 2019, U.S. District Judge Ursula Ungaro of the Southern District of Florida granted the government's motion for summary judgment against US Stem Cell Clinic LLC, of Weston, Florida, and US Stem Cell Inc., of Sunrise, Florida, and their Chief Scientific Officer Kristin Comella, Ph.D. The court held that the defendants in that case adulterated and misbranded a stem cell drug product made from a patient's adipose tissue.[8] On behalf of the FDA, the U.S. Department of Justice initiated this action against US Stem Cell Clinic LLC and US Stem Cell Inc., and Comella in May 2018, seeking a permanent injunction to stop the defendants' illegal behavior after several attempts to provide the clinic and the individual defendants the opportunity to work with the Agency to come into compliance with FDA regulations and protect patients from harm.[9]

Stem cells for clinical use are currently procured from living donors only, limiting the number of available products.[10] Obtaining organs and tissues for transplantation from deceased donors is a widely accepted strategy; however, during the routine deceased donor process, procuring the bone marrow and adipose tissue is not performed.[11]

Health Care Clinic Licensure

The Health Care Clinic Act, Chapter 400, Part X, F.S. provides for the licensure of entities that provide health care services to individuals and which tender charges for reimbursement for such services. In order to reduce duplicative licensure requirements, the law provides over 14 exemptions per s. 400.9905(4) (a) - (n), F.S. Most of these exemptions are provided to entities already regulated by the Agency as a health care provider for licensure and/or federal certification purposes; health care establishments or professions otherwise regulated by the Department of Health (DOH) or the Department of Children and Families (DCF); non-profit entities; or, entities with substantial financial commitment. Entities wholly owned and operated by persons licensed under chapter 458, F.S. (Medical Doctors) and chapter 459 (Osteopathic Physicians) providing services within their scope of practice are included in those currently exempt from health care clinic licensure.

An entity required to be licensed under Chapter 400, Part X, F.S. must apply for licensure on forms prescribed by the Agency. The licensure fee is $2,000 per biennium. The Agency also assesses each clinic $300 per biennium, pursuant to s. 408.033, F.S. Additional clinic costs are associated with compliance with the background screening requirements of Chapters 435 and 408, Part II, F.S. Background screening costs vary based on the number of staff required to be screened and the vendor used. An entity meeting one or more exemptions may apply for a certificate of exemption. The cost for a certificate of exemption is $100 per biennium.

A licensed health care clinic must continually engage the day-to-day supervision of a single medical director. A medical director is a physician who is employed or under contract with the clinic and who maintains a full and unencumbered physician's license in accordance with chapter 458 [Medical Practice, M.D.], chapter 459 [Osteopathic Medicine, D.O.],

[6] U.S. Department of Health and Human Services, Food and Drug Administration, *FDA Warns About Stem Cell Therapies,* https://www.fda.gov/consumers/consumer-updates/fda-warns-about-stem-cell-therapies, Accessed on February 5, 2020

[7] U.S. Food and Drug Administration, Press Announcements, *Federal court issues decision holding that US Stem Cell clinics and owner adulterated and misbranded stem cell products in violation of the law,* https://www.fda.gov/news-events/press-announcements/federal-court-issues-decision-holding-us-stem-cell-clinics-and-owner-adulterated-and-misbranded-stem, Accessed on February 6, 2020

[8] U.S. Food and Drug Administration, Press Announcements, *Federal court issues decision holding that US Stem Cell clinics and owner adulterated and misbranded stem cell products in violation of the law,* https://www.fda.gov/news-events/press-announcements/federal-court-issues-decision-holding-us-stem-cell-clinics-and-owner-adulterated-and-misbranded-stem, Accessed on February 6, 2020

[9] U.S. Food and Drug Administration, Press Announcements, *Federal court issues decision holding that US Stem Cell clinics and owner adulterated and misbranded stem cell products in violation of the law,* https://www.fda.gov/news-events/press-announcements/federal-court-issues-decision-holding-us-stem-cell-clinics-and-owner-adulterated-and-misbranded-stem, Accessed on February 6, 2020

[10] Zimmerlin, L., "Structural and Functional Characterization of Deceased Donor Stem Cells: A Viable Alternative to Living Donor Stem Cells", *Stem Cells International,Tissue-Derived Stem Cell Research*, Volume 2019, Article 5841587, https://www.hindawi.com/journals/sci/2019/5841587/#B13, Accessed on February 5, 2020

[11] Zimmerlin, L., "Structural and Functional Characterization of Deceased Donor Stem Cells: A Viable Alternative to Living Donor Stem Cells", *Stem Cells International,Tissue-Derived Stem Cell Research*, Volume 2019, Article 5841587, https://www.hindawi.com/journals/sci/2019/5841587/#B13, Accessed on February 5, 2020

chapter 460 [Chiropractic Medicine, D.C.], or chapter 461 [Podiatric Medicine, D.P.M.]. If the clinic does not provide services pursuant to the respective physician practices acts listed above, it may appoint a Florida-licensed health care practitioner as a clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license.

Among other duties, the medical or clinic director must agree in writing to accept legal responsibility for the following activities on behalf of the clinic:

- Ensure all practitioners providing health care services maintain a current active and unencumbered Florida license;
- Review any patient referral contracts or agreements executed by the clinic;
- Ensure all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided;
- Serve as the clinic records owner (s.456.057);
- Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements for all health care professionals (chapter 456), the respective practice acts, and rules adopted under the Health Care Clinic and Health Care Licensing Procedures Acts (chapters 400, Part X and 408, Part II);
- Conduct systematic reviews of clinic billings to ensure the billings are not fraudulent or unlawful and take immediate corrective action if needed; and
- Publish and post a schedule of charges for the medical services offered to patients.

A medical or clinic director may supervise up to five health care clinics provided the cumulative total of employees and persons under contract does not exceed 200. A medical or clinic director may not supervise a health care clinic more than 200 miles from any other health care clinic supervised by the same medical or clinic director.

As of February 5, 2020, there are 2,473 health care clinics licensed by the Agency and 4,226 providers an active certificate of exemption with the Agency. The Agency does not collect information that would currently identify licensed health care clinics or exempt clinics that are NSCBs.

Tissue Bank Certification

Chapter 765, Part V[12], F.S. contains provisions for the donation and procurement of human organs and tissues. Procurement is defined in section 765.511[13], F.S. as “any retrieval, recovery, processing, storage, or distribution of human organs or tissues for transplantation, therapy, research, or education.”

Tissue banks are currently certified under Chapter 765, Part V, Florida Statutes. A tissue bank is defined in section 765.511(23) as an entity that is accredited by the American Association of Tissue Banks or otherwise regulated under federal or state law to engage in the retrieval, screening, testing, processing, storage, or distribution of human tissue. Processing, as defined in section 59A-1.003(24), F.A.C., includes identification of the organ or tissue, organ or tissue treatment, preparation of components from such organ or tissue, testing, labeling, and associated record-keeping.

Chapter 59A-1, F.A.C. outlines the requirements for certification as a tissue bank. Currently, Rule 59A-1.003, F.A.C. defines tissue as any non-visceral collection of human cells and their associated intercellular substances and defines a tissue bank as a public or private entity which is involved in at least one of the following activities: a) retrieving, processing, storing, or distributing viable or nonviable human tissues to clinicians who are not involved in the procurement process; b) retrieving, processing, and storing human tissues in one institution and making these tissues available to clinicians in other institutions; or c) retrieving, processing, and storing human tissues for individual depositors and releasing these tissues to clinicians at the depositor’s request. Establishments such as transplantation centers and other hospitals which store tissue only for a short term pending scheduled surgery within the same facility but do not otherwise participate in retrieving, processing, or distributing tissue would not be regulated under these provisions.

Rule 59A-1.005, F.A.C. sets forth the standards for tissue banks including but not limited to the following:

- Organizational requirements

[12] Chapter 795, Part V, Anatomical Gifts

[13] Chapter 795.511, Definitions

- Safety and environmental control
- Facilities and equipment
- Ethical standards
- Organ and tissue procurement procedures
- Donor selection procedures
- Quality assurance and recall procedures
- Notification and documentation requirements, data collection
- Medical director requirements and responsibilities
- Retrieval and processing procedures
- Testing and screening requirements

Tissue bank certification is required for a person or entity engaging in the procurement of cadaveric tissue. Tissue banks are subject to inspection by the Agency at initial licensure and on a biennial basis. There is also an annual reporting requirement of procurement activities that includes the numbers and disposition of tissues procured and revenues and expenses associated with procurement activities. Tissue banks are also required to report adverse reactions to the Agency, including a follow-up analysis to determine the cause of the reaction. Adverse reactions can be reported as bacterial infection, transmission of a viral disease or other cause and must include information on the tissue identification and recovery, recipient, transplanting surgeon, quality management action plan and determination of cause.

2. EFFECT OF THE BILL:

The bill creates section 381.4017, F.S. and establishes requirements for the administration of nonembryonic stem cells and the use of such cells in health care products; and provides definitions to be used in this section. The bill provides that a nonembryonic stem cell bank (NSCB) that collects, stores, manufactures, dispenses, compounds and uses or purports to use nonembryonic stem cells and products containing nonembryonic stem cells is deemed a health care clinic and requires that NSCB comply with specified requirements, including:

- Commercial and professional liability insurance coverage
- Medical director appointment, qualifications and notification
- Adherence to manufacturing processes for the collection, removal, manufacturing, processing, compounding, and implantation of nonembryonic stem cells

The proposed language outlines requirements for dispensing drugs, compounded drugs, or products containing nonembryonic stem cells and prohibits an entity other than certain NSCBs and pharmacists from dispensing certain compounded drugs or products, with exceptions. The bill also prohibits certain health care practitioners from practicing in a NSCB that is not licensed with the Agency and provides for disciplinary action by the appropriate regulatory board for violations.

The bill requires health care practitioners to adhere to specified regulations in the performance of certain procedures. The "Agency" is required to adopt rules to implement applicable rules, however the bill does not clarify that the rulemaking authority is the Agency for Health Care Administration.

Health Care Clinic

The bill requires NSCBs to apply for a health care clinic license and meet current licensure requirements and additional requirements to be written by the Agency. The Agency must amend its current licensure application in order to distinguish NSCBs from other health care clinics and record the information into its databases (Versa Regulation, Online Licensing System, Laserfiche, the Florida Health Finder website, and the ASPEN suite of programs used for survey tracking). The updates to the application, Agency systems, and rule-writing will use available resources.

The bill provides for only two exemptions from licensure as a health care clinic:

1. facilities licensed under Chapter 395 (hospitals and ambulatory surgical centers); and
2. clinical facilities affiliated with an accredited medical school that provides training to medical students, residents, or fellows.

These exemptions are consistent with s. 400.9905(4)(a)-(d), and 400.9905(4)(h), respectively. Applicants currently eligible for existing health care clinic licensure exemptions, other than the two listed above, would no longer qualify if they operate as an NSCB.

The Agency is unable to determine the number of NCSBs currently operating in Florida, the number of NCSBs already licensed as health care clinics, or if any establishments issued a certificate of exemption from the health care clinic licensing requirements meet the definition of NSCB. Taking into account factors such as the population of Florida, the

number of licensed health care clinics and exempted health care clinics in the State of Florida, the definition of nonembryonic stem cell bank, the Agency estimates this bill has the potential to require up to 500 providers to apply for licensure as a health care clinic.

The bill requires NSCBs to meet several additional requirements. The following table lists the requirements compared to existing health care clinic requirements.

NSCB Licensure Requirements	**Current Health Care Clinic Requirement**
Definition of establishment, meaning the place of business allows for multiple buildings with an intervening thoroughfare.	Each health care clinic location must be separately licensed**.**
Have a pharmacy permit under chapter 465, F.S. for each person (pharmacist) and establishment.	HCCs may provide pharmacy services. A pharmacy permit is not a condition for licensure.
Adhere to the good manufacturing practices in the Federal Food, Drug, and Cosmetic Act and Chapter 21 Code of Federal Regulations, parts 1270 and 1271	No requirement
Have a physician medical director at all times to oversee compliance with all requirements, including the good manufacturing practices.	Have a medical director or clinical director to oversee billing practices and maintenance of medical records.
Notify the Agency within 10 days of a medical director change by submitting an updated licensure application.	A change of personnel may be submitted within 21 days of occurrence.
Failure to have a medical director is cause for summary suspension. NOTE: The bill incorrectly references s. 400.607, F.S., which is applicable to hospices. The correct reference is s. 400.9915, F.S.	Failure to have a medical director is grounds for emergency suspension pursuant to s. 400.9915, F.S. The Agency may also deny an application, revoke or suspend the license and administer a fine up to $5000 pursuant to s. 400.995, F.S. Additional authority resides in 408, part II, F.S.
Medical director must have a full, active unencumbered medical license.	Same
Maintain commercial and professional liability insurance in the amount of $250,000 per claim	No requirement
Operate each establishment using the same name as the health care clinic license.	Same
Pay all costs associated with licensure, registration, and inspection.	Pay licensure fee and biennial assessment fee. There are no inspection fees.
Adverse incident reporting	No requirement

The bill requires nonembryonic stem cell banks (NSCBs) to be licensed as health care clinics. Health care clinic (HCC) licensure does not include clinical standards; regulations include financial viability review based on a projected business plan, criminal background checks for owners and employees, and an on-site visit. By requiring additional regulations within the HCC license specific to NSCBs that are not currently required of all other HCCs, the bill creates a new licensure program within the HCC structure.

The bill does not provide language identifying how the stem cells are to be procured, the type of tissue that stem cell products are harvested from and whether the tissue will come from a living donor, deceased donor, or both. Currently, the only FDA approved stem cell products are derived from cord blood. Nonembryonic somatic or adult stem cells can be harvested from different sources including bone marrow and adipose (fatty) tissue. While tissue banks currently engage in the retrieval, screening, testing, processing, storage or distribution of human cadaveric tissue, since nonembryonic stem cells are derived from tissue, a NSCB is more characteristic of a tissue bank than a health care clinic. Tissue banks require certification in accordance with section 765.541, F.S. and Rule 59A-1.004, F.A.C. and are subject to the standards contained within chapter 59A-1, F.A.C. As such, it would be more appropriate to require NSCBs to be licensed as tissue banks, providing specific regulations under the tissue bank licensure to include non-cadaveric tissue.

The duties associated with expanding the health care clinic program include rule promulgation, application processing, background screening, inspections and complaints with the Agency requesting three FTEs to implement this bill – one surveyor (Health Facility Evaluator II) and two licensure staff (Health Services & Facilities Consultant). Rules will have to be promulgated and forms incorporated therein. Changes to the licensure database, including the online licensing program, will need to be implemented. A survey protocol specific for the additional requirements for NSCBs will have to be established, and if accreditation is allowed accrediting organizations will have to provide information to the Agency as

evidence of comparable standards in order to be recognized as a viable accrediting organization. The rule promulgation process will begin July 1, 2020. Fees include an application fee of $2,000 and a biennial assessment of $300 per s. 408.033, F.S.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y X___ N ___

If yes, explain:	The Agency is directed to write rules for health care clinics operating as nonembryonic stem cell banks.
Is the change consistent with the agency's core mission?	Y ___ N _X__
Rule(s) impacted (provide references to F.A.C., etc.):	59A-33, F.A.C.

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 __X_

If yes, provide a description:	NA
Date Due:	NA
Bill Section Number(s):	NA

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC.? REQUIRED BY THIS BILL? Y ___ N _X__

Board:	NA
Board Purpose:	NA
Who Appointments:	NA
Appointee Term:	NA
Changes:	NA
Bill Section Number(s):	NA

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ___ N X___

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 _X__ N ___

Revenues:	Licensure fees would be collected every two years from applicants. Estimating 500 additional health care clinics would result in the collection of $500,000 in licensure fees annual, based on spreading initial applicants over a two year period (250 per year).
Expenditures:	Application processing: The Agency assigned 5 FTE (Health Services & Facilities Consultants or HSFC) to process initial, renewal, and change of ownership applications submitted by health care clinics during calendar years 2018 and 2019. There were 2,994 initial, renewal, and change of ownership applications processed during this biennium, averaging nearly 600 applications per HSFC (2994 applications ÷ 5 HSFC = 598.8). The number of additional HSFC needed to process 500 applications per biennium will be one per year. Surveying: On average, one Health Facility Evaluator II (HFE II) is able to complete 1.6 health care clinic surveys per day. Given the additional licensing requirements for NSCBs, inspections are expected to take longer than a typical health care clinic, so estimates for NSCBs are 1 inspection per day. Accounting for holidays, paid leave, and training, an HFE II has 160 days per year to conduct on-site surveys (4 days per week X 40 weeks = 160 survey days). In addition to licensing inspections, complaints made the Agency will also require onsite inspection; based on 50 complaints per year, the agency estimates 300 inspections each year (250 biennial licensure inspections and 50 complaints). The Agency would require two HFE II's to perform the inspections for this program (300 inspections/ 160 per staff per year). The majority of health care clinics are located in Miami-Dade County so one HFE II position will require an increased base pay (Competitive Area Differential).
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	NA

FISCAL IMPACT:	**Year 1 (FY 2020-21)**	**Year 2 (FY 2021-22)**	**Year 3 (FY 2022-23)**

Non-Recurring Impact:

Expenditures:

Expense (Agency Standard Expense Package)							
Professional Staff	3.00	@	$	4,171	$	12,513	
Support Staff	0.00	@		3,741		-	
Total Non-Recurring Expense	**3.00**				**$**	**12,513**	
Operating Capital Outlay (Agency Standard Operating Capital Outlay Package)							
Microsoft Surface Pro 7, case, keyboard, pen, portable printer	2	@	$	1,365	$	2,730	
-	-	@		-		-	

Total Operating Capital Outlay					**$**	**2,730**		
Total Non-Recurring Expenditures					**$**	**15,243**		

Recurring Impact:

Revenues:								
License Application Fee for 500 Facilities ($2,000/facility)					$	500,000	$ 500,000	$ 500,000
-						-	-	-
-						-	-	-
-						-	-	-
-						-	-	-
Total Recurring Revenues					**$**	**500,000**	**$ 500,000**	**$ 500,000**
Expenditures:								
Salaries	**Class Code**	**FTEs**	**Pay Grade**	**Rate**				
Health Services & Facility Consultant	5894	1.00	24	41,106	$	59,351	$ 59,351	$ 59,351
Health Facility Evaluator II	5620	1.00	21	34,634		50,007	50,007	50,007
Health Facility Evaluator II	5620	1.00	21	35,595		51,394	51,394	51,394
-				-		-	-	-
-				-		-	-	-
-				-		-	-	-
-				-		-	-	-
-				-		-	-	-
-				-		-	-	-
Total Salary and Benefits		**3.00**		**111,335**	**$**	**160,751**	**$ 160,751**	**$ 160,751**
OPS		**FTEs**						
-		0.00			$	-	$ -	$ -
-		0.00				-	-	-
-		0.00				-	-	-
-		0.00				-	-	-
Total OPS		**0.00**			**$**	**-**	**$ -**	**$ -**
Expenses								
Professional Staff		3.00	@	$ 6,004	$	18,012	$ 18,012	$ 18,012
Support Staff		0.00	@	5,107		-	-	-
Surveyor Travel						20,000	20,000	20,000
-						-	-	-
-						-	-	-
Total Expenses					**$**	**38,012**	**$ 38,012**	$ 38,012
Human Resources Services								
FTE Positions		3.00	@	$ 329	$	987	$ 987	$ 987

OPS Positions	0.00	@	107		-	-	-
Total Human Resources Services				**$**	**987**	**$ 987**	**$ 987**
Special Categories/Contracted Services							
-				$	-	$ -	$ -
-						-	-
-						-	-
-						-	-
-						-	-
-						-	-
-						-	-
-						-	-
Total Special Categories/Contracted Services				**$**	**-**	**$ -**	**$ -**
Total Recurring Expenditures				**$**	**199,750**	**$ 199,750**	**$ 199,750**

Total Revenues and Expenditures:

Sub-Total Recurring Revenues	$ 500,000	$ 500,000	$ 500,000
Total Revenues	**$ 500,000**	**$ 500,000**	**$ 500,000**
Sub-Total Non-Recurring Expenditures	$ 15,243	$ -	$ -
Sub-Total Recurring Expenditures	199,750	199,750	199,750
Total Expenditures	**$ 214,993**	**$ 199,750**	**$ 199,750**
Net Impact (Total Revenues minus Total Expenditures)	**$ 285,007**	**$ 300,250**	**$ 300,250**

Net Impact (By Fund)

Health Care Trust Fund (2003)	$ 285,007	$ 300,250	$ 300,250
-	-	-	-
-	-	-	-
-	-	-	-
Net Impact (By Fund)	**$ 285,007**	**$ 300,250**	**$ 300,250**

3. DOES THE BILL HAVE A THE FISCAL IMPACT TO THE PRIVATE SECTOR? Y ___ N _X__

Revenues:	Unknown
Expenditures:	NA
Other:	NA

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ___ N _X__

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y _X__ N ___

If yes, describe the anticipated impact to the agency including any fiscal impact.	Updates to Versa Regulation and online licensing will need to match changes to the application. Additional license modifiers and data entry fields will need to be implemented.

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ___ N _X__

If yes, describe the anticipated impact including any fiscal impact.	NA

ADDITIONAL COMMENTS

Recommend licensure as a tissue bank instead of a health care clinic.

The term "Agency" should be defined as Agency for Health Care Administration so it is clear what agency is impacted and has responsibility for rulemaking and other requirements of this bill.

LEGAL – GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	

CourtSmart Tag Report

Room: KN 412 **Case No.:** **Type:**
Caption: Senate Appropriations Committee **Judge:**

Started: 2/20/2020 9:01:01 AM
Ends: 2/20/2020 2:12:23 PM **Length: 05:11:23**

9:01:16 AM Sen. Bradley (Chair)
9:03:22 AM S 7012
9:03:22 AM S 1326
9:03:32 AM S 118
9:03:36 AM Sen. Gruters
9:04:03 AM Tonnette Graham, Florida Association of Counties (waives in support)
9:05:18 AM S 1002
9:05:27 AM Sen. Rodriguez
9:06:56 AM S 1020
9:07:17 AM Sen. Bean
9:07:59 AM Bob Asztolos, Chief Lobbyist, Florida Health Care Association (waives in support)
9:09:01 AM S 1146
9:09:20 AM Sen. Brandes
9:09:59 AM Rachel Moscoso, Legislative Affairs Director, Department of Juvenile Justice (waives in support)
9:11:05 AM S 28
9:11:22 AM Sen. Gibson
9:13:14 AM Sen. Bradley
9:14:36 AM Sen. Gibson
9:16:23 AM S 810
9:17:00 AM Sen. Simmons
9:18:08 AM Sen. Simpson (Chair)
9:18:13 AM Am. 811930
9:18:18 AM Sen. Simmons
9:19:16 AM Sen. Stewart
9:19:40 AM Sen. Simmons
9:19:56 AM Sen. Stewart
9:20:22 AM Sen. Simmons
9:21:05 AM Sen. Stewart
9:21:11 AM Sen. Bean
9:22:06 AM Sen. Simmons
9:23:09 AM Sen. Brandes
9:23:26 AM Sen. Simmons
9:24:30 AM Sen. Brandes
9:24:55 AM Sen. Simmons
9:26:20 AM Sen. Brandes
9:26:33 AM Sen. Simmons
9:26:58 AM Sen. Brandes
9:27:18 AM Sen. Simmons
9:28:10 AM Lillie Meinhardt, Store Manager, South Georgia Vapor
9:31:02 AM Beth Chandler, Citizen
9:33:07 AM Robert Lovett, President, Florida Smoke Free Association
9:34:03 AM Kino Becton, Regional Government Affairs, Vapor Technology Association
9:36:53 AM Daniel Olson, Government Relations Director, Office of the Attorney General (waives in support)
9:37:05 AM Sen. Bean
9:38:23 AM Sen. Stewart
9:39:36 AM Sen. Brandes
9:41:30 AM Sen. Benacquisto
9:43:51 AM Sen. Simmons
9:49:54 AM S 810 (cont.)
9:50:07 AM K. Becton (waives in opposition)
9:50:15 AM D. Olson (waives in support)
9:50:23 AM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)

9:50:28 AM Doug Bell, Florida Chapter of the American Academy of Pediatrics (waives in support)
9:50:39 AM R. Lovett
9:53:46 AM Greg Pound, Saving Families Smoking
9:55:45 AM Sen. Simmons
9:57:14 AM Sen. Bradley (Chair)
9:57:20 AM S 1394
9:57:25 AM Sen. Simmons
9:57:33 AM Am. 874146
9:57:42 AM Sen. Simmons
9:57:56 AM S 1394 (cont.)
9:58:08 AM Robert Lovett, President, Florida Smoke Free Association (waives in opposition)
9:58:30 AM Kino Becton, Regional Government Affairs, Vapor Technology Association (waives in opposition)
9:58:36 AM Beth Chandler, Citizen (waives in opposition)
9:58:49 AM Scott Goodlin, Grassroots Manager, American Cancer Society Cancer Action Network (waives in support)
9:59:01 AM Ashley Lyerly, Director of Advocacy for Florida, American Lung Association (waives in support)
9:59:12 AM Lillie Meinhardt, Store Manager, South Georgia Vapor (waives in opposition)
9:59:39 AM Sen. Simmons
10:01:18 AM S 700
10:01:37 AM Sen. Perry
10:01:57 AM Am. 439690
10:02:15 AM S 700 (cont.)
10:02:39 AM Candice Brower, Executive Council Member, Public Interest Law Section of the Florida Bar (waives in support)
10:02:55 AM Kristina Wiggins, Executive Director, Florida Public Defender Association (waives in support)
10:04:00 AM S 952
10:04:05 AM Sen. Perry
10:04:21 AM Candice Brower, Regional Counsel, Offices of Criminal Conflict and Civil Regional Counsel (waives in support)
10:05:16 AM S 218
10:05:33 AM Sen. Harrell
10:06:51 AM Stephen Winn, Executive Director, Florida Osteopathic Medical Association (waives in support)
10:08:05 AM S 7040
10:08:33 AM Sen. Diaz
10:11:25 AM Sen. Book
10:12:00 AM Sen. Diaz
10:12:23 AM Sen. Rouson
10:12:44 AM Sen. Diaz
10:13:40 AM Am. 390288
10:13:48 AM Sen. Diaz
10:15:07 AM Sen. Bradley
10:15:22 AM Recording Paused
10:16:12 AM Recording Resumed
10:16:37 AM Sen. Diaz
10:18:59 AM Sen. Lee
10:20:15 AM Sen. Diaz
10:21:25 AM Sen. Lee
10:21:50 AM Sen. Diaz
10:22:39 AM Sen. Lee
10:22:59 AM Sen. Montford
10:24:57 AM Sen. Diaz
10:26:30 AM Sen. Montford
10:27:00 AM Sen. Diaz
10:27:54 AM Sen. Montford
10:28:31 AM Sen. Diaz
10:29:47 AM Sen. Bradley
10:29:58 AM Am. 701724
10:30:05 AM Sen. Thurston
10:31:51 AM Am. 105554
10:32:02 AM Sen. Thurston
10:33:34 AM Am. 502976
10:33:46 AM Sen. Diaz
10:34:56 AM Sen. Montford

10:35:19 AM Sen. Diaz
10:36:04 AM Sen. Montford
10:36:19 AM Sen. Diaz
10:36:53 AM Sen. Gibson
10:37:41 AM Sen. Diaz
10:39:26 AM Am. 390288 (cont.)
10:40:02 AM Am. 593112
10:40:21 AM Sen. Thurston
10:40:26 AM S 7040 (cont.)
10:40:39 AM Bethany Swinson, Deputy Chief of Staff, Florida Department of Education (waives in support)
10:40:46 AM Christan Camara, Florida Chapter School Alliance (waives in support)
10:40:56 AM Greg Pound, Saving Families
10:43:22 AM Sen. Book
10:44:25 AM Sen. Montford
10:45:00 AM Sen. Diaz
10:45:54 AM Sen. Bradley
10:48:28 AM S 474
10:48:37 AM Sen. Albritton
10:53:41 AM Sen. Powell
10:54:32 AM Sen. Albritton
10:55:12 AM Sen. Rouson
10:55:40 AM Sen. Albritton
10:56:56 AM Sen. Rouson
10:57:11 AM Sen. Simpson (Chair)
10:57:15 AM Sen. Albritton
10:58:04 AM Sen. Rouson
10:58:31 AM Sen. Albritton
10:59:08 AM Am. 525354
10:59:19 AM Sen. Albritton
11:03:45 AM Sen. Gibson
11:04:12 AM Sen. Albritton
11:05:49 AM Sen. Gibson
11:06:05 AM Sen. Albritton
11:06:30 AM Sen. Gibson
11:06:44 AM Sen. Albritton
11:07:19 AM Sen. Bradley
11:07:42 AM Sen. Albritton
11:07:50 AM Sen. Bradley
11:08:05 AM Sen. Montford
11:08:23 AM Sen. Albritton
11:08:53 AM Sen. Brandes
11:09:55 AM Sen. Albritton
11:10:50 AM Sen. Lee
11:12:03 AM Sen. Albritton
11:12:47 AM Sen. Book
11:13:28 AM Sen. Albritton
11:13:37 AM Sen. Book
11:14:14 AM Sen. Bradley
11:14:26 AM Sen. Rouson
11:15:11 AM Sen. Albritton
11:16:51 AM Sen. Rouson
11:17:08 AM Sen. Albritton
11:17:26 AM David Roberts, American Society of Interior Designers
11:18:07 AM Chris Dawson, Legislative Counsel, Florida Roofing and Sheet Metal Contractor Association
11:19:47 AM Sen. Bradley
11:20:05 AM Sen. Albritton
11:21:20 AM Christine Stapels, Executive Director, Florida Academy of Nutrition and Dietetics
11:24:23 AM Mez Varol, President, Florida Association of Cosmetology and Technical Schools (waives in support)
11:24:58 AM Michael Halmon, President, Florida Association of Cosmetology and Technical Schools
11:25:19 AM Susan Morgan, Interior Designer (waives in support)
11:25:29 AM Lisabeth Linart, Workplace Strategist (waives in support)
11:25:52 AM Rebecca Davisson, Interior Designer (waives in support)

11:26:02 AM Marissa Hibel, Project Coordinator, Gresham Smith (waives in support)
11:26:15 AM Natalie Milko, Interior Designer (waives in support)
11:26:23 AM Lauri Lewaluen, Citizen (waives in support)
11:26:36 AM Nicholas Marra, Project Coordinator, Gresham Smith (waives in support)
11:26:42 AM Sen. Flores
11:26:55 AM Sen. Bradley
11:27:12 AM Carole Butler, American Society of Interior Design (waives in support)
11:27:49 AM Thomas Wilkinson, Citizen (waives in support)
11:27:55 AM Lisa Waxman, Professor, Florida State University (waives in support)
11:28:14 AM Hays Lewona, Student (waives in support)
11:28:14 AM Rebecca Crosby, Interior Designer (waives in support)
11:28:14 AM Susan Morgan, President, Susan Morgan Interiors (waives in support)
11:28:17 AM Brett Ewer, Lobbyist, Crossfit Inc. (waives in support)
11:28:28 AM Jill Pable, Professor, Florida State University (waives in support)
11:28:33 AM Wanda Goetz, Citizen (waives in support)
11:28:41 AM Madelen Salter, Interior Designer (waives in support)
11:28:43 AM Mary Couch, Interior Designer (waives in support)
11:28:45 AM Reghan Elliott, Student, Florida State University (waives in support)
11:28:50 AM Carolyn Blake, Senior Interior Designer, Gresham Smith (waives in support)
11:28:53 AM Michael Ruggiano, Interior Designer (waives in support)
11:29:00 AM Michele Brown, Director, Micamy Design Studio (waives in support)
11:29:02 AM Sue Brown, Director, Micamy Design Studio (waives in support)
11:29:04 AM Samantha Untea, Interior Designer, Gresham Smith (waives in support)
11:29:14 AM Emily Vineyard, Interior Designer, Gresham Smith (waives in support)
11:29:17 AM Emily Haynes, Interior Designer, Gresham Smith (waives in support)
11:29:20 AM Johanna Thiger, Project Coordinator, Gresham Smith (waives in support)
11:29:37 AM Lauri Lewaluen, Interior Designer (waives in support)
11:29:43 AM Sarah Rink, Interior Designer (waives in support)
11:29:49 AM John Perez, Interior Designer (waives in support)
11:29:52 AM Kelly Robinson, Interior Designer, American Society of Interior Designers North Florida (waives in support)
11:29:58 AM Jose Cardenas, Interior Designer (waives in support)
11:30:04 AM Anna Osborne, Interior Designer, MLD Architects (waives in support)
11:30:08 AM Emily Ely, Interior Designer, GRC Architects (waives in support)
11:30:42 AM S 474 (cont.)
11:30:55 AM Mez Varol, President, Florida Association of Cosmetology and Technical Schools (waives in support)
11:31:09 AM Michael Halmon, President, Florida Association of Cosmetology and Technical Schools
11:32:24 AM Colton Madill, Deputy Legislative Affairs Director, Department of Business and Professional Regulation (waives in support)
11:32:30 AM Christian Camara, Institute for Justice (waives in support)
11:32:37 AM Phillip Suderman, Policy Director, Americans for Prosperity (waives in support)
11:32:46 AM Robert Rosenberg, President, Artistic Nails and Beauty Academy (waives in support)
11:32:50 AM Sandra Mortham, Florida Association of Postsecondary (waives in support)
11:33:13 AM Tara Taggart, Legislative Policy Analyst, Florida League of Cities
11:33:59 AM Sal Nuzzo, James Madison Institute (waives in support)
11:34:07 AM Sen. Simmons
11:34:36 AM T. Taggart
11:35:02 AM Sen. Albritton
11:36:17 AM Sen. Bradley
11:37:00 AM T. Taggart
11:37:22 AM James Mosteller, Advocacy Associate, Foundation for Florida's Future (waives in support)
11:37:41 AM Sen. Gibson
11:42:43 AM Sen. Bradley
11:43:07 AM Sen. Bean
11:44:26 AM Sen. Albritton
11:47:36 AM S 1166
11:49:05 AM Am. 796936
11:49:19 AM Sen. Albritton
11:50:10 AM Sen. Bradley
11:50:46 AM S 1166 (cont.)
11:50:53 AM Karis Lockhart, Director of Legal Affairs, Department of Economic Opportunity (waives in support)
11:52:20 AM S 712

11:52:37 AM Am. 413536
11:52:44 AM S 712 (cont.)
11:52:51 AM Sen. Mayfield
11:52:59 AM Am. 412518
11:53:30 AM Sen. Mayfield
12:01:39 PM Sen. Simpson (Chair)
12:01:44 PM Sen. Stewart
12:02:06 PM Sen. Mayfield
12:02:12 PM Sen. Stewart
12:02:15 PM Sen. Mayfield
12:03:08 PM Sen. Gainer
12:03:20 PM Sen. Mayfield
12:03:33 PM Sen. Lee
12:03:54 PM Sen. Mayfield
12:04:35 PM Sen. Lee
12:04:40 PM Sen. Mayfield
12:04:54 PM Sen. Lee
12:05:02 PM Sen. Mayfield
12:05:10 PM Sen. Lee
12:05:15 PM Sen. Flores
12:05:46 PM Sen. Mayfield
12:06:45 PM Sen. Flores
12:07:06 PM Sen. Mayfield
12:07:12 PM Sen. Flores
12:07:42 PM Sen. Mayfield
12:07:47 PM Sen. Montford
12:08:04 PM Sen. Mayfield
12:08:55 PM Sen. Montford
12:09:36 PM Sen. Mayfield
12:09:55 PM Sen. Montford
12:10:13 PM Sen. Mayfield
12:10:33 PM Jon Steverson, Public Affairs Director, Seven Springs Water Company
12:12:32 PM Sen. Simmons
12:13:44 PM J. Steverson
12:14:20 PM Bree Roberts, American Water Security Project (waives in support)
12:14:23 PM Kellie Ralston, Policy Director, American Sportfishing Association (waives in support)
12:14:44 PM Sen. Lee
12:17:18 PM Laura Donaldson, Attorney, Nestle Waters North America
12:20:38 PM Noah Valenstein, Secretary, Florida Department of Environmental Protection (waives in support)
12:20:47 PM Sen. Stewart
12:21:50 PM Sen. Bradley
12:23:18 PM S 712 (cont.)
12:23:21 PM Sen. Bradley (Chair)
12:23:37 PM Terry Ryan, Co-Founder, Tallahassee Sewage Advocacy Group
12:28:04 PM Sean McGlynn, Laboratory Director, Wakulla Springs Alliance
12:31:04 PM Merrillee Malwitz-Jipson, Board Director, Our Santa Fe River
12:38:32 PM Michael Roth, President, Our Santa Fe River
12:41:46 PM Jim Tatum, Board Member, Our Santa Fe River
12:44:51 PM Burt Eano, President, Rainbow River Conservation
12:50:55 PM Kelly Del Valle, Teacher
12:51:44 PM Reme Vaught, Underwater Photographer
12:53:01 PM Brenda Wells, Citizen
12:55:40 PM Maxine Connor, Florida Springs Council
12:59:52 PM Savannah Vrang, Photographer
1:01:34 PM Michelle Colson, Citizen
1:03:56 PM Ryan Smart, Executive Director, Florida Springs Council
1:07:13 PM Kurt Spitzer, Florida Stormwater Association (waives in opposition)
1:07:25 PM Adam Basford, Director of Legislative Affairs, Florida Farm Bureau (waives in support)
1:07:37 PM Jim Spratt, Associated Industries of Florida (waives in support)
1:07:43 PM Jonathan Webber, Deputy Director, Florida Conservation Voters (waives in opposition)
1:07:49 PM Andrew Rutledge, Policy Representative, Florida Realtors (waives in support)
1:07:55 PM Bree Roberts, American Water Security Project (waives in support)

1:08:14 PM Cassidy Beller, Student
1:09:24 PM Sen. Bradley
1:09:51 PM C. Beller
1:09:59 PM Sen. Brandes
1:10:05 PM Christopher Emmanuel, Policy Director, Florida Chamber of Commerce (waives in support)
1:10:23 PM James Otto, Sex and Buds, Clay County FL Hotels
1:13:13 PM Sen. Brandes
1:13:18 PM J. Otto
1:14:56 PM David Cullen, Sierra Club Florida
1:18:06 PM Sen. Simmons
1:18:20 PM D. Cullen
1:18:35 PM Sen. Simmons
1:18:40 PM D. Cullen
1:18:47 PM Sen. Simmons
1:19:00 PM D. Cullen
1:20:14 PM Sen. Simmons
1:20:33 PM D. Cullen
1:22:28 PM Sen. Simmons
1:22:51 PM D. Cullen
1:23:06 PM Sen. Simmons
1:23:28 PM D. Cullen
1:23:41 PM Sen. Simmons
1:23:45 PM Sen. Bradley
1:24:13 PM Sen. Simmons
1:25:04 PM D. Cullen
1:25:16 PM Kristin Rubin, Our Santa Fe River
1:28:02 PM Noah Valenstein, Secretary, FL Dept. of Environmental Protection
1:32:18 PM Sen. Lee
1:33:46 PM N. Valenstein
1:35:29 PM Sen. Lee
1:35:50 PM N. Valenstein
1:36:35 PM Sen. Brandes
1:39:05 PM Sen. Montford
1:39:52 PM N. Valenstein
1:41:23 PM Sen. Montford
1:41:38 PM N. Valenstein
1:42:37 PM Sen. Brandes
1:43:05 PM N. Valenstein
1:43:36 PM Sen. Mayfield
1:49:20 PM S 512
1:49:27 PM Sen. Hutson
1:50:28 PM Sen. Powell
1:50:42 PM Sen. Hutson
1:50:52 PM Sen. Powell
1:51:10 PM Sen. Hutson
1:51:42 PM Am. 315950
1:51:46 PM Sen. Hutson
1:52:13 PM S 512 (cont.)
1:53:10 PM S 7066
1:53:18 PM Sen. Hutson
1:54:29 PM S 7020
1:54:45 PM Sen. Lee
1:56:55 PM Sen. Stewart
1:57:22 PM Sen. Lee
1:58:15 PM Jared Rosenstein, Legislative Affairs Director, Florida Division of Emergency Management (waives in support)
1:59:27 PM S 1324
1:59:37 PM Sen. Simpson
1:59:44 PM Am. 336202
1:59:47 PM Sen. Simpson
2:01:12 PM Sen. Bradley
2:01:28 PM Lisa Kiel, State Courts Administrator, State Courts System (waives in support)

2:01:39 PM Sen. Book
2:02:08 PM S 1324 (cont.)
2:02:25 PM L. Kiel (waives in support)
2:02:32 PM Ashley Tising, Public Policy Consultant, Big Bend Advocacy Center (waives in support)
2:03:45 PM S 434
2:03:51 PM Sen. Montford
2:04:47 PM Matthew Choy, Policy Director, Florida Chamber of Commerce (waives in support)
2:04:51 PM Debbie Mortham, Legislative Director, Foundation for Florida's Future (waives in opposition)
2:05:53 PM Sen. Simpson (Chair)
2:05:58 PM SB 1714
2:06:12 PM Sen. Bradley
2:06:41 PM Sen. Powell
2:07:29 PM Sen. Bradley
2:08:57 PM Cody Farrill, Deputy Chief of Staff, Florida Department of Management Services (waives in support)
2:09:55 PM Sen. Bradley (Chair)
2:10:02 PM Sen. Rouson
2:10:23 PM Sen. Braynon
2:10:41 PM Sen. Benacquisto
2:10:58 PM Sen. Stargel
2:11:06 PM Sen. Gibson
2:11:30 PM Sen. Simpson
2:11:35 PM Sen. Flores
2:11:55 PM Sen. Simmons
2:12:15 PM Sen. Stewart