

<b>Tab 1</b>	<b>SB 28 by Gibson (CO-INTRODUCERS) Bradley;</b> (Similar to CS/H 06507) Relief of Clifford Williams by the State of Florida					
<b>Tab 2</b>	<b>SB 118 by Gruters;</b> (Identical to CS/H 00131) Security in Trial Court Facilities					
<b>Tab 3</b>	<b>CS/SB 218 by HP, Harrell;</b> (Identical to H 00221) Licensure Requirements for Osteopathic Physicians					
<b>Tab 4</b>	<b>CS/SB 434 by ED, Montford;</b> (Identical to H 00957) Designation of School Grades					
<b>Tab 5</b>	<b>CS/CS/SB 474 by CM, IT, Albritton (CO-INTRODUCERS) Gruters;</b> (Compare to H 00077) Deregulation of Professions and Occupations					
525354	A	S	RCS	AP, Albritton	Delete L.290 - 2102:	02/20 04:18 PM
<b>Tab 6</b>	<b>CS/SB 512 by HP, Hutson;</b> (Compare to CS/H 00313) Nonembryonic Stem Cell Banks					
315950	A	S	RCS	AP, Hutson	Delete L.169 - 236:	02/20 04:33 PM
<b>Tab 7</b>	<b>CS/SB 700 by CJ, Perry (CO-INTRODUCERS) Pizzo, Braynon, Harrell, Gruters, Brandes, Bracy, Gibson;</b> (Similar to H 00615) Juvenile Diversion Program Expunction					
439690	A	S	RCS	AP, Perry	Delete L.41 - 44:	02/20 03:57 PM
<b>Tab 8</b>	<b>CS/SB 712 by CA, Mayfield (CO-INTRODUCERS) Harrell, Albritton;</b> (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
<b>Tab 9</b>	<b>CS/CS/SB 810 by IT, HP, Simmons (CO-INTRODUCERS) Flores, Mayfield;</b> (Compare to H 00151) Tobacco and Nicotine Products					
811930	A	S	RCS	AP, Simmons	Delete L.39 - 330:	02/20 03:45 PM
<b>Tab 10</b>	<b>CS/SB 952 by GO, Perry;</b> (Compare to CS/CS/H 00605) Senior Management Service Class					
<b>Tab 11</b>	<b>SB 1002 by Rodriguez;</b> (Identical to CS/H 00103) Subpoenas					
<b>Tab 12</b>	<b>SB 1020 by Bean;</b> (Similar to CS/H 00559) Institutional Formularies Established by Nursing Home Facilities					
<b>Tab 13</b>	<b>CS/SB 1146 by CJ, Brandes;</b> (Similar to H 01175) Special Risk Class of the Florida Retirement System					
<b>Tab 14</b>	<b>CS/SB 1166 by CM, Albritton;</b> (Similar to CS/H 00969) Broadband Internet Service					
796936	A	S	L RCS	AP, Albritton	Delete L.100:	02/20 04:21 PM
<b>Tab 15</b>	<b>CS/SB 1324 by CF, Simpson;</b> (Compare to CS/H 00043) Child Welfare					
336202	D	S	RCS	AP, Simpson	Delete everything after	02/21 01:01 PM

<b>Tab 16</b>	<b>SB 1326 by Simpson;</b> (Compare to CS/H 07063) Department of Children and Families						
835096	D	S	RS	AP, Simpson	Delete everything after	02/28 10:04 AM	
<del>272028</del>	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	

<b>Tab 17</b>	<b>CS/SB 1394 by IT, Simmons;</b> Fees/Tobacco Products						
874146	A	S	L RCS	AP, Simmons	Delete L.13 - 36:	02/20 03:51 PM	

<b>Tab 18</b>	<b>SB 1714 by Bradley;</b> (Similar to H 01387) Sale of Surplus State-owned Office Buildings and Associated Nonconservation Lands						
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<b>Tab 19</b>	<b>SB 7012 by CF (CO-INTRODUCERS) Rouson;</b> (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	
<del>314786</del>	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	

<b>Tab 20</b>	<b>SB 7020 by IS;</b> (Compare to CS/CS/CS/H 00395) Emergency Staging Areas						
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<b>Tab 21</b>	<b>CS/SB 7040 by IS, ED (CO-INTRODUCERS) Diaz;</b> (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	
<del>701724</del>	AA	S	WD	AP, Thurston	Delete L.165 - 177:	02/21 02:13 PM	
<del>105554</del>	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	
<del>139528</del>	A	S	WD	AP, Thurston	Delete L.258 - 270:	02/19 04:40 PM	
<del>730920</del>	A	S	WD	AP, Thurston	btw L.573 - 574:	02/19 04:41 PM	
<del>593112</del>	A	S	WD	AP, Thurston	btw L.573 - 574:	02/21 02:13 PM	

<b>Tab 22</b>	<b>SPB 7066 by AP;</b> Licensure Fees						
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**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	<b>SB 28</b> 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	<b>SB 118</b> 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	<b>CS/SB 218</b> 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

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 434</b> 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	Favorable Yeas 20 Nays 0
With subcommittee recommendation - Education			
5	<b>CS/CS/SB 474</b> 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	<b>CS/SB 512</b> 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	<b>CS/SB 700</b> 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	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			

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

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>CS/SB 712</b> 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	<b>CS/CS/SB 810</b> 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	<b>CS/SB 952</b> 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

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	<b>SB 1002</b> 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	Favorable Yeas 18 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			
12	<b>SB 1020</b> 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	Favorable Yeas 19 Nays 0
With subcommittee recommendation – Health and Human Services			
13	<b>CS/SB 1146</b> 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	<b>CS/SB 1166</b> 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

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
15	<b>CS/SB 1324</b> 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	<b>SB 1326</b> 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	<b>CS/SB 1394</b> 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

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations

Thursday, February 20, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	<b>SB 1714</b> 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			
<b>A proposed committee substitute</b> for the following bill (SB 7012) is available:			
19	<b>SB 7012</b> 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	<b>SB 7020</b> 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



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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
21	<b>CS/SB 7040</b> 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	<b>SPB 7066</b>	Licensure Fees; Requiring certain nonembryonic stem cell banks to pay specified fees, etc.	Submitted and Reported Favorably as Committee Bill Yeas 20 Nays 0
<b>(Preliminary Draft Available - final draft will be made available at least 24 hours prior to the meeting)</b>			
Other Related Meeting Documents			

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**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.<sup>1</sup>

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,"<sup>2</sup> 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<sup>3</sup> and an audit board<sup>4</sup> 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."<sup>5</sup> The State Attorney of the Fourth Judicial Circuit agreed with the findings.<sup>6</sup>

On March 28, 2019, the convictions and sentences of Mr. Myers and Mr. Williams were vacated.<sup>7</sup>

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<sup>1</sup> 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).

<sup>2</sup> 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](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).

<sup>3</sup> CIR Report at 44.

<sup>4</sup> 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.

<sup>5</sup> CIR Report at 43.

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

<sup>7</sup> Order Vacating Defendant's Judgment and Sentences, State of Fla. v. Williams, No. 1976-CF-000912 (Fla. 4<sup>th</sup> 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.<sup>8</sup> 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.<sup>9</sup>

Mr. Williams, however, has two unrelated prior felonies<sup>10</sup> 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.<sup>11</sup> Mr. Williams also filed a motion to have portions of the Victims of Wrongful Incarceration Compensation Act found unconstitutional and that matter is ongoing.<sup>12</sup>

### **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.<sup>13</sup> Ms. Williams died instantly<sup>14</sup> from the bullet that entered the back of her head while Ms. Marshall survived the wounds she sustained.<sup>15</sup>

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

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<sup>8</sup> Chapter 961, Fla. Stat.

<sup>9</sup> 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. 4<sup>th</sup> Cir. Ct.) (Sept. 10, 2019).

<sup>10</sup> 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.

<sup>11</sup> Special Master Hearing at 48:00–48:36.

<sup>12</sup> 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. 4<sup>th</sup> 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”).

<sup>13</sup> See Jacksonville Police Department, General Offense Report, at 2 and 7 (July 8, 1976).

<sup>14</sup> State of Fla. v. Williams and Myers, No. 76-912 (Fla. 4<sup>th</sup> Cir. Ct.) (Second Trial Testimony of Dr. Sam E. Stephenson) 336 (Sept. 1976).

<sup>15</sup> 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.<sup>16</sup> She heard popping sounds and said the sounds were coming from in front of the television, where two men were standing.<sup>17</sup> She said she saw sparks as they fired guns, wrapped in something, from the foot of the bed.<sup>18</sup> 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.<sup>19</sup>

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.<sup>20</sup> 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.<sup>21</sup> Ms. Marshall also gave conflicting testimony as to whether Ms. Williams said anything during the shooting.<sup>22</sup>

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).<sup>23</sup> 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.<sup>24</sup> Multiple times, the driver asked

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<sup>16</sup> First Trial Testimony from Nina Marshall, 23 (July 1976); Deposition, Nina Marshall, 50–51 (July 8, 1976).

<sup>17</sup> Second Trial Testimony from Nina Marshall at 176; Deposition, Nina Marshall at 52–53.

<sup>18</sup> 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.

<sup>19</sup> First Trial Testimony of Nina Marshall at 122 (stating she saw sparks coming from two directions); Deposition, Nina Marshall at 55–58.

<sup>20</sup> 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).

<sup>21</sup> First Trial Testimony from Nina Marshall at 65–69.

<sup>22</sup> First Trial Testimony from Nina Marshall at 63 (stating Ms. Williams called out for her).

<sup>23</sup> 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.

<sup>24</sup> 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”<sup>25</sup> and claimed both men had entered the apartment and shot her and Ms. Williams.<sup>26</sup>

Around 2:40 a.m., officers noted approximately 35–50 people gathered in a crowd at the scene.<sup>27</sup> 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.<sup>28</sup> 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.<sup>29</sup> 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.<sup>30</sup> 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.

<sup>25</sup> 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).

<sup>26</sup> 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.

<sup>27</sup> General Offense Report at 4.

<sup>28</sup> *Id.* at 4.

<sup>29</sup> *Id.*; Deposition, Detective Richard Bowen at 26.

<sup>30</sup> 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.<sup>31</sup>

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.”<sup>32</sup> 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.”<sup>33</sup> 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.<sup>34</sup> She also stated “they” were smoking marijuana at the time of the conversation and Mr. Myers had supposedly bragged about being high.<sup>35</sup>

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!’”<sup>36</sup> Mr. Gordon did not want to be involved and did not cooperate with the CIR investigation.<sup>37</sup>

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<sup>31</sup> Deposition, Nina Marshall at 73–74;127. General Offense Report at 13–14; Deposition, Detective J.R. Bradley at 46 – 47.

<sup>32</sup> Deposition, Nina Marshall at 111.

<sup>33</sup> *Id.* at 116.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Christopher Snype, Statement July 13, 1976.

<sup>37</sup> *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.<sup>38</sup> 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.<sup>39</sup>

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.<sup>40</sup>

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.<sup>41</sup>

#### **Arrest of Mr. Williams and Mr. Myers**

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

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<sup>38</sup> 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).

<sup>39</sup> *Id.*

<sup>40</sup> Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).

<sup>41</sup> E-mail correspondence from Shelley Thibodeau (Dec. 18, 2019).

<sup>42</sup> 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.<sup>43</sup> 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.<sup>44</sup>

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.<sup>45</sup> Mr. Williams and Mr. Myers have consistently proclaimed their innocence.<sup>46</sup>

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

Prior to trial, Mr. Myers was offered 2–5 years<sup>47</sup> 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.<sup>48</sup>

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

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<sup>43</sup> General Offense Report at 5–6.

<sup>44</sup> General Offense Report at 5; Deposition, Detective Richard Bowen at 35–36. See *also* Deposition, Officer Robert Horne, 48 (July 14, 1976).

<sup>45</sup> Deposition, J.R. Bradley at 33–35.

<sup>46</sup> 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.

<sup>47</sup> 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.

<sup>48</sup> 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<sup>49</sup>) and information provided during the claim bill process.<sup>50</sup>

#### *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).<sup>51</sup> The shots fired inside of the room “were barely perceptible and were not measurably louder than the ambient noise level” during testing.<sup>52</sup> 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.”<sup>53</sup>

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.<sup>54</sup> 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.<sup>55</sup>

#### *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<sup>56</sup> as was present in the screen from the crime scene.

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<sup>49</sup> 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.

<sup>50</sup> 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).

<sup>51</sup> 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).

<sup>52</sup> Knox and Associates, LLC Report (Knox) 16–17 (Nov. 27, 2018).

<sup>53</sup> *Id.* at 17.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 21.

<sup>56</sup> *Id.* at 17.

The curtains, screen, and window of the north bedroom window all had holes in them.<sup>57</sup> The lower right portion of the window frame “revealed an apparent bullet hole” and had “carbonaceous material” on it.<sup>58</sup>

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.”<sup>59</sup> 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.<sup>60</sup> 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.<sup>61</sup> 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.”<sup>62</sup>

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.<sup>63</sup>

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

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<sup>57</sup> General Offense Report at 4.

<sup>58</sup> FDLE, Tallahassee Regional Crime Laboratory Report (July 5, 1976); see Special Master Hearing, Testimony of Shelley Thibodeau at 1:11:00–1:11:45.

<sup>59</sup> Deposition, Detective Richard Bowen at 46.

<sup>60</sup> Deposition, Detective J.R. Bradley at 11–12.

<sup>61</sup> Knox at 18.

<sup>62</sup> *Id.* at 18.

<sup>63</sup> 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.<sup>64</sup>

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 wound as the projectile entered the skin.<sup>65</sup> 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.<sup>66</sup> 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.<sup>67</sup>

#### *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.<sup>68</sup>

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<sup>64</sup> *Id.* at 1:23:10–1:24:12.

<sup>65</sup> *Id.* at 1:15:00–1:15:56.

<sup>66</sup> *Id.* at 1:15:56 – 1:16:38.

<sup>67</sup> *Id.* at 1:16:38–1:17:14.

<sup>68</sup> 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.<sup>69</sup>

### *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.<sup>70</sup> 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,<sup>71</sup> and undisturbed, neatly arranged shoes partially tucked under the dressers.<sup>72</sup>

The Knox report notes, "[t]he likelihood of a shooter(s) entering the residence and taking a position at the furthestmost 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.<sup>73</sup>

### *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.<sup>74</sup> 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

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<sup>69</sup> Knox at 20.

<sup>70</sup> 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).

<sup>71</sup> 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.

<sup>72</sup> CIR Report, exhibits P and Q at 62–63.

<sup>73</sup> Knox at 21.

<sup>74</sup> *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.<sup>75</sup> Results of the tests were negative for gunshot residue.<sup>76</sup>

#### *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.<sup>77</sup> 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.”<sup>78</sup>

#### *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.<sup>79</sup> 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.<sup>80</sup> The crime

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<sup>75</sup> 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.

<sup>76</sup> 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.

<sup>77</sup> Office of the Sheriff, Jacksonville, FL, Intradepartmental Correspondence Re: Hubert [Nathan] Myers Polygraph Examination 2–3 (July 20, 2018).

<sup>78</sup> Office of the Sheriff, Jacksonville, FL, Intradepartmental Correspondence Re: Clifford Williams Polygraph Examination 2 (November 7, 2018).

<sup>79</sup> CIR Report at 28.

<sup>80</sup> 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.<sup>81</sup>

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.<sup>82</sup> However, she also told him she did not know who shot her because she was asleep when it happened.<sup>83</sup> Mr. Curtis also stated he was positive Ms. Marshall used heroin during the trial, including while she was at his house.<sup>84</sup>

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.<sup>85</sup>

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.<sup>86</sup> 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.<sup>87</sup> The notes also indicate Mr. Gordon remembered the event but did not want to be involved; he did not cooperate during the CIR investigation.<sup>88</sup>

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<sup>81</sup> 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).

<sup>82</sup> Deposition, Henry Curtis at 5.

<sup>83</sup> *Id.* at 7 and 15.

<sup>84</sup> See Deposition, Henry Curtis at 1 and 14.

<sup>85</sup> Deposition, Harold Torrence at 11.

<sup>86</sup> Christopher Snype, Statement (July 13, 1976).

<sup>87</sup> 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).

<sup>88</sup> 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.<sup>89</sup>

### **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,<sup>90</sup> as well as a number of other individuals.<sup>91</sup>

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<sup>89</sup> Special Master Hearing, Testimony of Shelley Thibodeau at 2:15:16–2:15:35.

<sup>90</sup> 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.

<sup>91</sup> 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.<sup>92</sup>

The CIR report highlighted three of the alibi witnesses.<sup>93</sup> First, Joann Fleming, whose apartment was next door to the party, who still clearly recalls seeing 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

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

<sup>92</sup> Special Master Hearing, Testimony of Shelley Thibodeau at 2:05:50–2:06:54.

<sup>93</sup> CIR Report at 17–19.

together in any other way and found them credible.<sup>94</sup> 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.<sup>95</sup>

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.<sup>96</sup>

*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).<sup>97</sup>

*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

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<sup>94</sup> Special Master Hearing, Testimony of Shelley Thibodeau at 3:13:50–3:15:55. Mr. Lawson died in 1994. *Id.*

<sup>95</sup> Sworn Affidavit, Tony Brown, 1–2 (October 21, 2014); see CIR Report at 20.

<sup>96</sup> *Id.*

<sup>97</sup> CIR Report at 21.

the director Mr. Lawson said he was “staying out of it” and did not want to speak about it.<sup>98</sup>

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.<sup>99</sup>

*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.”<sup>100</sup> 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.<sup>101</sup> Mr. Lawson allegedly wondered aloud and stated, “What can I do? I can’t turn myself in.”<sup>102</sup> 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.<sup>103</sup>

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.<sup>104</sup>

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<sup>98</sup> *Id.* at 22.

<sup>99</sup> *Id.*

<sup>100</sup> Special Master Hearing, Testimony of Shelly Thibodeau at 3:29:00–3:29:00.

<sup>101</sup> CIR Report at 23.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> 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,<sup>105</sup> 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.<sup>106</sup>

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<sup>107</sup> and was not able to find any evidence Mr. Williams is anything other than innocent.<sup>108</sup> Significantly, the director noted there was no evidence to suggest either Mr. Williams or Mr. Myers had been involved in any capacity;<sup>109</sup> 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.<sup>110</sup>

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<sup>105</sup> Chapter 961, Fla. Stat.

<sup>106</sup> 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. 4<sup>th</sup> 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.*

<sup>107</sup> Special Master Hearing, Testimony of Shelley Thibodeau at 2:31:58–2:32:49.

<sup>108</sup> *Id.* at 3:17:21–3:19:34.

<sup>109</sup> Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).

<sup>110</sup> 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."<sup>111</sup>

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.<sup>112</sup>

**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."<sup>113</sup>

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."<sup>114</sup> 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."<sup>115</sup>

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<sup>111</sup> Special Master Hearing, Britt Thomas, counsel for the respondent at 4:19:00–4:20:19.

<sup>112</sup> 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.

<sup>113</sup> Section 961.03(3), Fla. Stat.

<sup>114</sup> Bryan A. Garner, Black's Law Dictionary (2006).

<sup>115</sup> 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.<sup>116</sup>

### **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.<sup>117</sup>

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

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<sup>116</sup> Section 961.06(1), Fla. Stat.

<sup>117</sup> 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.<sup>118</sup> 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.<sup>119</sup> 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.<sup>120</sup>

**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

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<sup>118</sup> See Deposition, Nina Marshal, 4–5; Witness Chart; Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).

<sup>119</sup> 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).

<sup>120</sup> 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.<sup>121</sup>

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

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<sup>121</sup> 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.<sup>122</sup>

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

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<sup>122</sup> Conference Call with Counsel for Parties and the Director of the CIR (Dec. 12, 2019).

By Senator Gibson

6-00176-20

202028\_\_

1 A bill to be entitled  
 2 An act for the relief of Clifford Williams; providing  
 3 an appropriation to compensate him for being  
 4 wrongfully incarcerated for 43 years; directing the  
 5 Chief Financial Officer to draw a warrant for the  
 6 purchase of an annuity; requiring the Department of  
 7 Financial Services to pay specified funds; providing  
 8 for the waiver of certain tuition and fees for Mr.  
 9 Williams; specifying conditions for payment; providing  
 10 that the act does not waive certain defenses or  
 11 increase the state's limits of liability; prohibiting  
 12 any further award to include certain fees and costs;  
 13 providing that certain benefits are vacated upon  
 14 specified findings; providing an effective date.  
 15  
 16 WHEREAS, Clifford Williams was arrested on May 2, 1976, and  
 17 convicted of first-degree murder and first-degree attempted  
 18 murder on September 2, 1976, and  
 19 WHEREAS, Clifford Williams spent 4 years on death row  
 20 before the Florida Supreme Court reversed his death sentence in  
 21 1980, and  
 22 WHEREAS, Clifford Williams has maintained his innocence,  
 23 and  
 24 WHEREAS, on February 25, 2019, the Conviction Integrity  
 25 Review Division (CIR) for the Office of the State Attorney for  
 26 the Fourth Judicial Circuit issued a report and recommendation,  
 27 based on a comprehensive investigation spanning nearly a year,  
 28 in Clifford Williams' case, and  
 29 WHEREAS, on March 28, 2019, the Circuit Court for the

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

6-00176-20

202028\_\_

30 Fourth Judicial Circuit granted, with the concurrence of the  
 31 state, a motion for postconviction relief, vacated the judgment  
 32 and sentence of Clifford Williams, and ordered a new trial, and  
 33 WHEREAS, on March 28, 2019, the state orally pronounced a  
 34 nolle prosequi with regard to the retrial of Clifford Williams,  
 35 and  
 36 WHEREAS, the report found that there was no credible  
 37 evidence of Clifford Williams' guilt, and likewise, that there  
 38 was substantial credible evidence of Clifford Williams'  
 39 innocence, and  
 40 WHEREAS, the Legislature acknowledges that the state's  
 41 system of justice yielded an imperfect result that had tragic  
 42 consequences in this case, and  
 43 WHEREAS, the Legislature acknowledges that, as a result of  
 44 his physical confinement, Clifford Williams suffered significant  
 45 damages that are unique to Clifford Williams, and such damages  
 46 are due to the fact that he was physically restrained and  
 47 prevented from exercising the freedom to which all innocent  
 48 citizens are entitled, and  
 49 WHEREAS, before his conviction for the above-mentioned  
 50 crimes, Clifford Williams had two prior convictions for  
 51 unrelated felonies, and  
 52 WHEREAS, because of his prior violent felony convictions,  
 53 Clifford Williams is ineligible for compensation under chapter  
 54 961, Florida Statutes, and  
 55 WHEREAS, the Legislature is providing compensation to  
 56 Clifford Williams to acknowledge the fact that he suffered  
 57 significant damages that are unique to Clifford Williams for  
 58 being wrongfully incarcerated, and

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202028\_\_

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

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

65  
66 Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

82 Section 5. Tuition and fees for Clifford Williams shall be  
83 waived for up to a total of 120 hours of instruction at any  
84 career center established pursuant to s. 1001.44, Florida  
85 Statutes, Florida College System institution established under  
86 part III of chapter 1004, Florida Statutes, or state university.  
87

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

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

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

132 Section 7. The Legislature does not waive any defense of  
 133 sovereign immunity or increase the limits of liability on behalf  
 134 of the state or any person or entity that is subject to s.  
 135 768.28, Florida Statutes, or any other law.

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

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

151 Section 10. This act shall take effect upon becoming a law.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 118

INTRODUCER: Senator Gruters

SUBJECT: Security in Trial Court Facilities

DATE: February 19, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cibula</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Jameson</u>	<u>Jameson</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
3.	<u>Jameson</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

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## 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.<sup>1</sup> This

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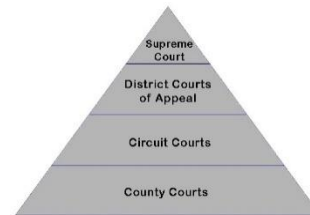
<sup>1</sup> See generally *Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 235 So. 3d 996 (Fla. 2d DCA 2017).

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.<sup>2</sup>

### 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.<sup>3</sup>



The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”<sup>4</sup>

### 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.<sup>5</sup> The chief justice of the Florida Supreme Court is constitutionally designated as the “chief administrative officer of the judicial system.”<sup>6</sup> The Constitution also directs that a chief judge be chosen for each district court of appeal and each circuit court.<sup>7</sup>

#### *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.<sup>8</sup> Currently, there are 20 judicial circuits and 67 county courts, one in each of Florida’s 67 counties,<sup>9</sup> as constitutionally required.<sup>10</sup>

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.<sup>11</sup>

<sup>2</sup> *Id.*

<sup>3</sup> FLA. CONST. art. V., s. 1.

<sup>4</sup> *Id.* (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).

<sup>5</sup> FLA. CONST. art. V, s. 2(a).

<sup>6</sup> FLA. CONST. art. V, s. 2(b).

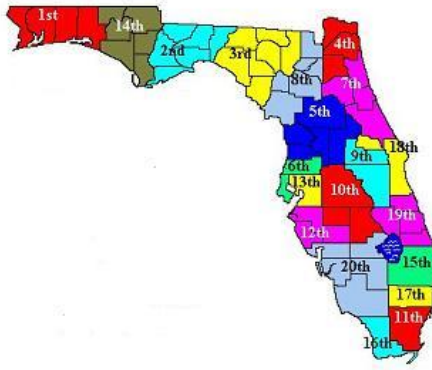
<sup>7</sup> FLA. CONST. art. V, s. 2(c), (d).

<sup>8</sup> FLA. CONST. art. V, s. 2(d). Additionally, the chief judge is constitutionally chosen “as provided by supreme court rule.” *Id.*

<sup>9</sup> Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Sept. 10, 2019).

<sup>10</sup> FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).

<sup>11</sup> Ron DeSantis, 46<sup>th</sup> 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.”<sup>12</sup> 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.<sup>13</sup>

**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.*<sup>14</sup>

<sup>12</sup> Section 43.26, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> 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.<sup>15</sup>

## **Sheriffs**

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

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<sup>15</sup> Emphasis added.

<sup>16</sup> FLA. CONST. art. VIII, s. (d).



and disciplining deputies.<sup>17</sup> 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.<sup>18</sup>

### ***Sheriffs' Courtroom Duties***

The sheriff is “the executive officer of the circuit court of the county.”<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup>

### ***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,<sup>22</sup> 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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<sup>17</sup> See generally *Demings v. Orange County Citizens Review Bd.*, 15 So. 3d 604, 610–11 (Fla. 5th DCA 2009).

<sup>18</sup> See generally s. 30.15, F.S.

<sup>19</sup> Section 26.49, F.S. See also s. 34.07, F.S. (sheriff is executive officer of county courts).

<sup>20</sup> Section 30.15(1)(a)-(c), F.S.

<sup>21</sup> *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).

<sup>22</sup> 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.

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

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By Senator Gruters

23-00190-20

2020118\_\_

1 A bill to be entitled  
 2 An act relating to security in trial court facilities;  
 3 amending s. 30.15, F.S.; requiring sheriffs to  
 4 coordinate with certain boards of county commissioners  
 5 and chief judges to develop a comprehensive plan for  
 6 security of trial court facilities; specifying that  
 7 sheriffs and chief judges retain certain authorities;  
 8 specifying that sheriffs and their deputies,  
 9 employees, and contractors are officers of the court  
 10 under specified circumstances; providing an effective  
 11 date.

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

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

17 30.15 Powers, duties, and obligations.—

18 (4) (a) In accordance with each county's obligation under s.  
 19 14, Art. V of the State Constitution and s. 29.008 to fund  
 20 security for trial court facilities, the sheriff of each county  
 21 shall coordinate with the board of county commissioners of that  
 22 county and the chief judge of the circuit in which that county  
 23 is located on the development of a comprehensive plan for the  
 24 provision of security for trial court facilities. Each sheriff  
 25 shall retain authority over the implementation and provision of  
 26 law enforcement services associated with the plan. The chief  
 27 judge of the circuit shall retain decision-making authority to  
 28 ensure the protection of due process rights, including, but not  
 29 limited to, the scheduling and conduct of trials and other

Page 1 of 2

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

23-00190-20

2020118\_\_

30 judicial proceedings as part of his or her responsibility for  
 31 the administrative supervision of trial courts under s. 43.26.  
 32 (b) Sheriffs and their deputies, employees, and contractors  
 33 are officers of the court when providing security for trial  
 34 court facilities under this subsection.

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

Page 2 of 2

**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,

A handwritten signature in black ink that reads "Joe Gruters".

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](http://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.

Phone 904.4200

Street

Tallahassee, FL 32307

City

State

Zip

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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**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	<b>Fav/CS</b>
2.	Howard	Kynoch	AP	<b>Favorable</b>
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup>

### ***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.<sup>2</sup>

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.<sup>3</sup>

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<sup>1</sup> Florida Osteopathic Medical Association, *Osteopathic Medicine*, available at: <http://www.foma.org/osteopathic-medicine.html> (last visited Sept 9, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> 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.<sup>4</sup>

The ACGME was established by five medical organizations in 1981<sup>5</sup> 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.<sup>6</sup>

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

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<sup>4</sup> American Council of Graduate Medical Education, *What We Do*, available at: <https://www.acgme.org/What-We-Do/Overview> (last visited Sept. 9, 2019).

<sup>5</sup> American Council of Graduate Medical Education, *Member Organizations*, available at: <https://www.acgme.org/About-Us/Overview/Member-Organizations> (last visited Sept. 9, 2019). The five organizations 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.

<sup>6</sup> 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.<sup>7</sup>

### ***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.<sup>8</sup>

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

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.<sup>12</sup>

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<sup>7</sup> 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).

<sup>8</sup> 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](https://mk0nrmp3oyqui6wqfm.kinstacdn.com/wp-content/uploads/2019/04/NRMP-Results-and-Data-2019_04112019_final.pdf) (last visited Sept. 9, 2019).

<sup>9</sup> The Accreditation Council for Graduate Medical Education, *Member Organizations*, available at: <https://www.acgme.org/About-Us/Member-Organizations>, (last visited Sept. 10, 2019).

<sup>10</sup> *Supra* note 8.

<sup>11</sup> 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).

<sup>12</sup> *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.<sup>13</sup>

**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.

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

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<sup>13</sup> 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

1 A bill to be entitled  
 2 An act relating to licensure requirements for  
 3 osteopathic physicians; amending s. 459.0055, F.S.;  
 4 revising licensure requirements for persons seeking  
 5 licensure or certification as an osteopathic  
 6 physician; providing an effective date.  
 7  
 8 Be It Enacted by the Legislature of the State of Florida:  
 9  
 10 Section 1. Subsection (1) of section 459.0055, Florida  
 11 Statutes, is amended to read:  
 12 459.0055 General licensure requirements.—  
 13 (1) Except as otherwise provided herein, any person  
 14 desiring to be licensed or certified as an osteopathic physician  
 15 pursuant to this chapter shall:  
 16 (a) Complete an application form and submit the appropriate  
 17 fee to the department;  
 18 (b) Be at least 21 years of age;  
 19 (c) Be of good moral character;  
 20 (d) Have completed at least 3 years of preprofessional  
 21 postsecondary education;  
 22 (e) Have not previously committed any act that would  
 23 constitute a violation of this chapter, unless the board  
 24 determines that such act does not adversely affect the  
 25 applicant's present ability and fitness to practice osteopathic  
 26 medicine;  
 27 (f) Not be under investigation in any jurisdiction for an  
 28 act that would constitute a violation of this chapter. If, upon  
 29 completion of such investigation, it is determined that the

Page 1 of 3

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

588-00987-20

2020218c1

30 applicant has committed an act that would constitute a violation  
 31 of this chapter, the applicant is ineligible for licensure  
 32 unless the board determines that such act does not adversely  
 33 affect the applicant's present ability and fitness to practice  
 34 osteopathic medicine;  
 35 (g) Have not had an application for a license to practice  
 36 osteopathic medicine denied or a license to practice osteopathic  
 37 medicine revoked, suspended, or otherwise acted against by the  
 38 licensing authority of any jurisdiction unless the board  
 39 determines that the grounds on which such action was taken do  
 40 not adversely affect the applicant's present ability and fitness  
 41 to practice osteopathic medicine. A licensing authority's  
 42 acceptance of a physician's relinquishment of license,  
 43 stipulation, consent order, or other settlement, offered in  
 44 response to or in anticipation of the filing of administrative  
 45 charges against the osteopathic physician, shall be considered  
 46 action against the osteopathic physician's license;  
 47 (h) Not have received less than a satisfactory evaluation  
 48 from an internship, residency, or fellowship training program,  
 49 unless the board determines that such act does not adversely  
 50 affect the applicant's present ability and fitness to practice  
 51 osteopathic medicine. Such evaluation shall be provided by the  
 52 director of medical education from the medical training  
 53 facility;  
 54 (i) Have met the criteria set forth in s. 459.0075, s.  
 55 459.0077, or s. 459.021, whichever is applicable;  
 56 (j) Submit to the department a set of fingerprints on a  
 57 form and under procedures specified by the department, along  
 58 with a payment in an amount equal to the costs incurred by the

Page 2 of 3

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

588-00987-20

2020218c1

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

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

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

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

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR GAYLE HARRELL**  
25th District

**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

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,

A handwritten signature in blue ink that reads "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](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR GAYLE HARRELL**  
25th District

**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

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,

A handwritten signature in blue ink that reads "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
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Senate's Website: [www.flsenate.gov](http://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

Phone 850-878-3056

Street

Tulsa Fla. 32301

City

State

Zip

Email winn@pearllink.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.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Favorable</b>
3.	<u>Underhill</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

---

**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.<sup>1</sup> School grades are used in the state system of school improvement and accountability to determine the need for school intervention and support,<sup>2</sup> or to determine whether a school is eligible for school recognition funds.<sup>3</sup>

---

<sup>1</sup> Florida Department of Education, *2019 School Grades Overview*, available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesOverview19.pdf>.

<sup>2</sup> See s. 1008.33(4), F.S.

<sup>3</sup> See s. 1008.36, F.S.

Schools are graded using one of the following grades:<sup>4</sup>

- “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.<sup>5</sup> Middle and high school models include additional components beyond the basic model.<sup>6</sup>

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:<sup>7</sup>

- The four-year high school graduation rate of the school as defined by State Board of Education (SBE) rule.<sup>8</sup>
- 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<sup>9</sup> and CAPE industry certifications<sup>10</sup> are determined in SBE rule.

<sup>4</sup> Section 1008.34(2), F.S., and Rule 6A-1.09981(4)(d), F.A.C.

<sup>5</sup> 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.

<sup>6</sup> See s. 1008.34(3)(b), F.S., and Rule 6A-1.09981(4)(a)-(c), F.A.C.

<sup>7</sup> Section 1008.34(3)(b)2., F.S., and Rule 6A-1.09981(4)(c)2. and 3., F.A.C.

<sup>8</sup> 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.

<sup>9</sup> 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>.

<sup>10</sup> 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.<sup>11</sup> The SBE annually approves the *Dual Enrollment Course—High School Subject Area Equivalency List*<sup>12</sup> 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.<sup>13</sup> Non-college-credit (clock hour) career certificate dual enrollment courses are not included in the school grade calculation.<sup>14</sup>

### 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.<sup>15</sup>

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.

<sup>11</sup> Section 1007.271(9), F.S.

<sup>12</sup> 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>.

<sup>13</sup> 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.

<sup>14</sup> 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.

<sup>15</sup> 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.<sup>16</sup>

**VI. Technical Deficiencies:**

None.

---

<sup>16</sup> 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

1 A bill to be entitled  
 2 An act relating to designation of school grades;  
 3 amending s. 1008.34, F.S.; revising the components on  
 4 which a school's grade is based; providing an  
 5 effective date.  
 6  
 7 Be It Enacted by the Legislature of the State of Florida:  
 8  
 9 Section 1. Paragraph (b) of subsection (3) of section  
 10 1008.34, Florida Statutes, is amended to read:  
 11 1008.34 School grading system; school report cards;  
 12 district grade.—  
 13 (3) DESIGNATION OF SCHOOL GRADES.—  
 14 (b)1. Beginning with the 2014-2015 school year, a school's  
 15 grade shall be based on the following components, each worth 100  
 16 points:  
 17 a. The percentage of eligible students passing statewide,  
 18 standardized assessments in English Language Arts under s.  
 19 1008.22(3).  
 20 b. The percentage of eligible students passing statewide,  
 21 standardized assessments in mathematics under s. 1008.22(3).  
 22 c. The percentage of eligible students passing statewide,  
 23 standardized assessments in science under s. 1008.22(3).  
 24 d. The percentage of eligible students passing statewide,  
 25 standardized assessments in social studies under s. 1008.22(3).  
 26 e. The percentage of eligible students who make Learning  
 27 Gains in English Language Arts as measured by statewide,  
 28 standardized assessments administered under s. 1008.22(3).  
 29 f. The percentage of eligible students who make Learning

Page 1 of 3

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

581-02000-20

2020434c1

30 Gains in mathematics as measured by statewide, standardized  
 31 assessments administered under s. 1008.22(3).  
 32 g. The percentage of eligible students in the lowest 25  
 33 percent in English Language Arts, as identified by prior year  
 34 performance on statewide, standardized assessments, who make  
 35 Learning Gains as measured by statewide, standardized English  
 36 Language Arts assessments administered under s. 1008.22(3).  
 37 h. The percentage of eligible students in the lowest 25  
 38 percent in mathematics, as identified by prior year performance  
 39 on statewide, standardized assessments, who make Learning Gains  
 40 as measured by statewide, standardized Mathematics assessments  
 41 administered under s. 1008.22(3).  
 42 i. For schools comprised of middle grades 6 through 8 or  
 43 grades 7 and 8, the percentage of eligible students passing high  
 44 school level statewide, standardized end-of-course assessments  
 45 or attaining national industry certifications identified in the  
 46 CAPE Industry Certification Funding List pursuant to rules  
 47 adopted by the State Board of Education.  
 48  
 49 In calculating Learning Gains for the components listed in sub-  
 50 subparagraphs e.-h., the State Board of Education shall require  
 51 that learning growth toward achievement levels 3, 4, and 5 is  
 52 demonstrated by students who scored below each of those levels  
 53 in the prior year. In calculating the components in sub-  
 54 subparagraphs a.-d., the state board shall include the  
 55 performance of English language learners only if they have been  
 56 enrolled in a school in the United States for more than 2 years.  
 57 2. For a school comprised of grades 9, 10, 11, and 12, or  
 58 grades 10, 11, and 12, the school's grade shall also be based on

Page 2 of 3

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

581-02000-20

2020434c1

59 the following components, each worth 100 points:

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

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

73 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,

A handwritten signature in cursive script that reads "Bill Montford".

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](http://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)

Topic Designation of School Grades'

Amendment Barcode (if applicable)

Name Debbie Mortham

Job Title Legislative Director

Address 215 S. Monroe St.

Phone \_\_\_\_\_

Street

Tallahassee FL 32311

Email debbie@excelined.org

City

State

Zip

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)*

Topic Designation of School Grades

*Amendment Barcode (if applicable)*

Name Matthew Choy

Job Title Policy Director

Address 136 S Bronough St

Phone 561-386-3451

*Street*

Tallahassee

FL

32311

Email mchoy@flchamber.com

*City*

*State*

*Zip*

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.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup> The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.<sup>2</sup>

### 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,”<sup>3</sup> as well as the procedural and administrative framework for those divisions and all of the professional boards within the DBPR.<sup>4</sup>

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,”<sup>5</sup> 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;

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<sup>1</sup> Section 548.003(1), F.S.

<sup>2</sup> See Parts I and III of ch. 450, F.S.

<sup>3</sup> See s. 455.01(6), F.S.

<sup>4</sup> 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.

<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup>

### **DBPR Boards**

Fifteen boards and programs exist within the Division of Professions,<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup> Those who are granted licenses are referred to as licensees.<sup>11</sup>

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.<sup>12</sup> In Fiscal Year 2018-2019, there were 439,821 active licensees in professions regulated by the Division of Professions,<sup>13</sup> including:

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

<sup>6</sup> *Id.*

<sup>7</sup> Section 455.201(4)(b), F.S.

<sup>8</sup> 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.

<sup>9</sup> Section 455.219(1), F.S.

<sup>10</sup> Section 455.01(4), F.S.

<sup>11</sup> Section 455.01(5), F.S.

<sup>12</sup> 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](http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf) (last visited Feb. 4, 2020).

<sup>13</sup> 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).<sup>14</sup>

### **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;

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<sup>14</sup> 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.<sup>15</sup>

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.<sup>16</sup> 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.<sup>17</sup> Applicants for a branch office license pay a \$100 fee, and the license must be renewed every two years.<sup>18</sup>

### *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

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<sup>15</sup> 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).

<sup>16</sup> Section 326.004(1), F.S.

<sup>17</sup> Section 326.004(13), F.S.

<sup>18</sup> See Fla. Admin. Code R. 61B-60.002 (2019).

and regulates the activities of labor unions and their officers, agents, organizers, and representatives.<sup>19</sup>

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.”<sup>20</sup>

In Florida, all labor organizations are required to register with the DBPR and all business agents of labor organizations must obtain a license.<sup>21</sup> 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.”<sup>22</sup>

Applicants for a business agent license must pay a \$25 license fee and must meet a number of licensure requirements.<sup>23</sup> Labor organization applicants must pay an annual fee of \$1.<sup>24</sup>

### *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.<sup>25</sup>

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<sup>19</sup> 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).

<sup>20</sup> Section 447.02(1), F.S.

<sup>21</sup> Sections 447.04(2) and 447.06, F.S.

<sup>22</sup> Section 447.02(2), F.S.

<sup>23</sup> Section 447.04(2), F.S.

<sup>24</sup> Section 447.06(2), F.S.

<sup>25</sup> *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 Midwives;
- 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.<sup>26</sup> 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.<sup>27</sup> The DOH may proceed with additional disciplinary action against the practitioner, regardless if he or she provides proof of entering a new repayment plan.<sup>28</sup>

In the 2017-2018 fiscal year, the DOH reported 850 student loan defaults, 76 completed investigations, and 26 emergency suspension orders filed.<sup>29</sup> 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.<sup>30</sup> In 2018-2019, the most affected licensed professions were Certified Nursing Assistant (43 suspension orders) and Registered Nurse (18 suspension orders).<sup>31</sup>

### Licensure in Other State Agencies

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

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<sup>26</sup> Section 456.0721, F.S.

<sup>27</sup> See s. 456.074, F.S.

<sup>28</sup> *Id.*

<sup>29</sup> 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).

<sup>30</sup> 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).

<sup>31</sup> *Id.*

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

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

<sup>32</sup> 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.

<sup>33</sup> 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).

<sup>34</sup> 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).

<sup>35</sup> 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).

<sup>36</sup> 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).

<sup>37</sup> 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.”<sup>38</sup>

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.<sup>39</sup>

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.<sup>40</sup>

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.<sup>41</sup>

An auctioneer may be disciplined or have a civil action brought against them by the DBPR for one of the following violations:<sup>42</sup>

- 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;

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<sup>38</sup> Section 468.382(1), F.S.

<sup>39</sup> Sections 468.385(2) and 468.383, F.S.

<sup>40</sup> Sections 468.385(6), F.S.

<sup>41</sup> See Fla. Admin. Code R. 61G2-3.001 (2019).

<sup>42</sup> 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:<sup>43</sup>

- 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.<sup>44</sup>

### *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.<sup>45</sup>

### **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.<sup>46</sup> There were 418 licensed talent agencies and no disciplinary orders issued to talent agencies in the 2018- 2019 fiscal year.<sup>47</sup>

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<sup>43</sup> Section 468.391, F.S.

<sup>44</sup> *Supra* note 12 at pp. 19 and 90.

<sup>45</sup> See s. 559.21, F.S., relating to the regulation of sales.

<sup>46</sup> Section 468.401, F.S.

<sup>47</sup> *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.<sup>48</sup> Licenses are renewed biennially.

Part VII of ch. 468, F.S., also includes requirements for recordkeeping,<sup>49</sup> prohibitions on registration fees,<sup>50</sup> and contractual requirements.<sup>51</sup> 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.<sup>52</sup> 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.<sup>53</sup> 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

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<sup>48</sup> Section 468.408, F.S.

<sup>49</sup> Section 468.409, F.S.

<sup>50</sup> Section 468.410, F.S.

<sup>51</sup> See, e.g., sections 468.410(3), and 468.413(2)(f), F.S.

<sup>52</sup> 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.

<sup>53</sup> 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***

Dietitians 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.<sup>54</sup>

The practice of dietetics and nutrition includes:<sup>55</sup>

- 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.<sup>56</sup> A nutrition assessment is an evaluation of nutritional needs using appropriate data to determine nutrient needs or status and making appropriate nutrition recommendations.<sup>57</sup>

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<sup>54</sup> Section 468.506, F.S.

<sup>55</sup> Section 468.503(5), F.S.

<sup>56</sup> Section 468.503(10), F.S.

<sup>57</sup> 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.<sup>58</sup> To qualify for licensure, an applicant must:<sup>59</sup>

- 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. Licensure is not required for a person:<sup>60</sup>

- 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.

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<sup>58</sup> Section 468.504, F.S.

<sup>59</sup> 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.

<sup>60</sup> 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.<sup>61</sup>

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.<sup>62</sup> The biennial renewal fee is \$75.<sup>63</sup>

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

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

### *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 dietitian, licensed dietitian, registered dietitian, licensed nutritionist, licensed nutrition counselor, or use any other term or symbol that implies 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.<sup>67</sup> This is commonly referred to as a “temporary employment arrangement” or “temp job.”<sup>68</sup> The Board of Employee Leasing Companies under

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<sup>61</sup> See 456.065, F.S. The unlicensed practice of a regulated health care profession may be subject a person to administrative and criminal sanctions.

<sup>62</sup> 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).

<sup>63</sup> *Id.*

<sup>64</sup> Commission on Dietetic Registration, Academy of Nutrition and Dietetics, *Laws that Regulate Dietitians/Nutritionists*, available at <https://www.cdrnet.org/vault/2459/web/files/Licensurelawsregulations.pdf> (last visited Feb. 19, 2020).

<sup>65</sup> *Id.*

<sup>66</sup> Florida Department of Health, *supra* note 30 at 14, 29.

<sup>67</sup> Section 468.520(4), F.S.

<sup>68</sup> Michael Altiero, *PEO and Employee Leasing-What's the Difference?* (Jan. 8, 2018),

<https://www.extensigroup.com/blog/peo-and-employee-leasing-whats-the-difference> (last visited Feb. 21, 2020).

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

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).<sup>71</sup>

A building code administrator, otherwise known as a building official, supervises building code activities, including plans review, enforcement, and inspection.<sup>72</sup>

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;

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<sup>69</sup> Section 468.522, F.S.

<sup>70</sup> *Supra* note 12 at 19 and 90.

<sup>71</sup> Section 468.605, F.S.

<sup>72</sup> Section 468.603(1), F.S.

- Mechanical inspector;
- Plumbing inspector;
- One and two family dwelling inspector; and
- Electrical inspector.<sup>73</sup>

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.<sup>74</sup> 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.<sup>75</sup>

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:<sup>76</sup>

- 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:<sup>77</sup>

- 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

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<sup>73</sup> Section 468.603(6), F.S.

<sup>74</sup> Section 468.603(7), F.S.

<sup>75</sup> *Id.*

<sup>76</sup> Section 468.609(3), F.S.

<sup>77</sup> 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:<sup>78</sup>

- 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.<sup>79</sup>

### *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.

<sup>78</sup> Section 468.613, F.S.; and Fla. Admin. Code R. 61G19-6.0035(4) (2019).

<sup>79</sup> *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.<sup>80</sup>

A person who is licensed in another state is eligible for a license by endorsement in Florida if the person:<sup>81</sup>

- 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.<sup>82</sup>

There were 7,090 active licensed home inspectors and four disciplinary orders issued in the 2018-2019 fiscal year.<sup>83</sup>

### *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.

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<sup>80</sup> Section 468.8313, F.S.

<sup>81</sup> Section 468.8414(3), F.S.

<sup>82</sup> *Id.*

<sup>83</sup> *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.<sup>84</sup>

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.<sup>85</sup>

A person who is licensed in another state is eligible for a professional engineering license by endorsement in Florida if the person:<sup>86</sup>

- 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.<sup>87</sup>

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.<sup>88</sup>

### *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

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<sup>84</sup> Section 471.038(3), F.S.

<sup>85</sup> Section 471.013, F.S.

<sup>86</sup> Section 471.015(3), F.S.

<sup>87</sup> Section 471.015(5), F.S.

<sup>88</sup> *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.<sup>89</sup> The Division of Certified Public Accounting provides administrative support to the nine-member board, which consists of seven CPAs and two laypersons.<sup>90</sup>

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.<sup>91</sup>

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.<sup>92</sup> 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:<sup>93</sup>

- 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.<sup>94</sup>

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<sup>89</sup> Supra, note 12 at p. 12.

<sup>90</sup> Section 473.303, F.S.

<sup>91</sup> 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.

<sup>92</sup> Section 473.302(8), F.S.

<sup>93</sup> Sections 473.308(2)-(5), F.S.

<sup>94</sup> Rule 61H1-29.003, F.A.C.

If the applicant is not licensed in another state or territory, the applicant must:<sup>95</sup>

- 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:<sup>96</sup>

- 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 or 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 or 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.<sup>97</sup>

A veterinarian is a health care practitioner licensed by the board to engage in the practice of veterinary medicine in Florida,<sup>98</sup> 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.<sup>99</sup>

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

<sup>95</sup> Section 473.308(7)(a), F.S.

<sup>96</sup> Section 473.308(7)(b), F.S.

<sup>97</sup> See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

<sup>98</sup> See s. 474.202(11), F.S.

<sup>99</sup> 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.<sup>100</sup>

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.<sup>101</sup>

A person who is licensed in another state or country is eligible for licensure by endorsement in Florida, if the person has:<sup>102</sup>

- 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.<sup>103</sup>

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,<sup>104</sup> 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.<sup>105</sup>

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

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<sup>100</sup> Fla. Admin. Code R. 61G18-11.002 (2019).

<sup>101</sup> American Association of Veterinary State Boards, *International Pathways*, available at: <https://www.aavsb.org/pave/> (last visited Feb. 4, 2020).

<sup>102</sup> Section 474.217(1), F.S.

<sup>103</sup> Section 474.217(2), F.S.

<sup>104</sup> Section 474.202(6), F.S.

<sup>105</sup> Section 474.215(7)-(8), F.S.

<sup>106</sup> Section 474.215(7), F.S.

<sup>107</sup> 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.<sup>108</sup>

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,<sup>109</sup> or have a minimum of 1,200 hours of specified training.<sup>110</sup>

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

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<sup>108</sup> 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.

<sup>109</sup> 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.

<sup>110</sup> 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.<sup>111</sup>

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.<sup>112</sup> An applicant for a restricted barber license must satisfactorily complete 600 hours of training.<sup>113</sup>

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.<sup>114</sup>

### *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.<sup>115</sup>

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.<sup>116</sup>

A “specialist” is defined as “any person holding a specialty registration in one or more of the specialties registered under ch. 477, F.S.”<sup>117</sup> The term “specialty” is defined as “the practice of one or more of the following:

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<sup>111</sup> See s. 476.114(2), F.S.

<sup>112</sup> See s. 476.144(6), F.S.

<sup>113</sup> Fla. Admin. Code R. 61G3-16.006 (2019).

<sup>114</sup> Section 455.2228, F.S.

<sup>115</sup> 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).

<sup>116</sup> See ss. 477.013(6) and 477.0201, F.S.

<sup>117</sup> 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.”<sup>118</sup>

The term “cosmetologist” is defined as “a person who is licensed to engage in the practice of cosmetology.”<sup>119</sup> “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.<sup>120</sup>

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

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.<sup>124</sup>

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.<sup>125</sup>

The applicant must submit a specialist application for registration with the DBPR with a registration fee not to exceed \$50.<sup>126</sup>

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.<sup>127</sup> Therefore, individuals seeking to apply polish to fingernails and toenails for compensation are required to obtain a

<sup>118</sup> See s. 477.013(6), F.S.

<sup>119</sup> See s. 477.013(3), F.S.

<sup>120</sup> 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.

<sup>121</sup> See s. 477.013(6), F.S.

<sup>122</sup> 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.

<sup>123</sup> See s. 477.025(9), F.S.

<sup>124</sup> See s 477.0201, F.S.

<sup>125</sup> Fla. Admin. Code R. 61G5-22 (2019).

<sup>126</sup> Section 477.026, F.S.

<sup>127</sup> 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.<sup>128</sup> In addition, persons providing makeup in a theme park or entertainment complex to actors or the general public are exempt from licensing requirements.<sup>129</sup>

“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.”<sup>130</sup>

“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.<sup>131</sup>

“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.”<sup>132</sup>

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.<sup>133</sup>

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,<sup>134</sup> 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.

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<sup>128</sup> See ss. 477.013(11), 477.0135(1)(f), and 477.0135(5), F.S.

<sup>129</sup> See s. 477.0135(6), F.S.

<sup>130</sup> 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).

<sup>131</sup> Section 477.013(10), F.S.

<sup>132</sup> Section 477.013(11), F.S.

<sup>133</sup> Section 455.2228, F.S.

<sup>134</sup> 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.<sup>135</sup>

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

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

Cosmetology services must be performed in a licensed cosmetology or specialty salon by a properly licensed professional,<sup>139</sup> 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;<sup>140</sup>
- 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.<sup>141</sup>

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.<sup>142</sup>

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.<sup>143</sup>

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<sup>135</sup> 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).

<sup>136</sup> Section 477.019(7)(b), F.S.

<sup>137</sup> Section 477.025(1), F.S.

<sup>138</sup> Section 477.025(9), F.S.; and Fla. Admin. Code R. Ch. 61G5-20 (2019).

<sup>139</sup> Section 477.0263(1), F.S.

<sup>140</sup> A "special event" is defined as a wedding or fashion show in Fla. Admin. Code R. 61G5-20.0015(1) (2019).

<sup>141</sup> Sections 477.0263(2) through (4), F.S.

<sup>142</sup> Section 477.019(6), F.S.

<sup>143</sup> 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).<sup>144</sup>

**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

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<sup>144</sup> 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.<sup>145</sup>

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.<sup>146</sup>

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.<sup>147</sup>

### **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.<sup>148</sup>

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.

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<sup>145</sup> 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.

<sup>146</sup> Section 481.219(1), F.S.; such practice must comply with all the requirements in s. 481.219, F.S.

<sup>147</sup> Section 481.219(2)-(3), F.S.

<sup>148</sup> Sections 481.223(1)(b) and (c), F.S.

The following persons may practice interior design without a license:<sup>149</sup>

- 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.<sup>150</sup>
- 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.<sup>151</sup>

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.<sup>152</sup>

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.<sup>153</sup> 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.<sup>154</sup>

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.”<sup>155</sup>

#### 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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<sup>149</sup> Section 481.229(6), F.S.

<sup>150</sup> 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.

<sup>151</sup> Section 481.229(6)(b), F.S.

<sup>152</sup> See Council for Interior Design Qualification, *Become NCIDQ Certified*, available at: <http://www.cidq.org>.

<sup>153</sup> See Fla. Admin. Code R. 61G1-17.001 and R. 61G1-17.002 (2019).

<sup>154</sup> See s. 481.219, F.S.

<sup>155</sup> 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:<sup>156</sup>

- 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.

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<sup>156</sup> 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<sup>157</sup> unless the person holds a valid license issued pursuant to part II of ch. 481, F.S.<sup>158</sup> 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.<sup>159</sup>

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;<sup>160</sup>
- Pass the nationally recognized Landscape Architecture Registration Examination (LARE);<sup>161</sup> and
- Have two years of practical experience, not including any experience used to qualify to take the examination.<sup>162</sup>

A person who is licensed in another state is eligible for a landscape architecture license by endorsement in Florida if they:<sup>163</sup>

- 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.<sup>164</sup>

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.<sup>165</sup> A business entity has no regulatory obligations other than to obtain

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<sup>157</sup> 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.

<sup>158</sup> Section 481.323(1)(a), F.S.

<sup>159</sup> Section 481.319(1), F.S.

<sup>160</sup> Section 481.309(1)(b), F.S.

<sup>161</sup> Fla. Admin. Code R. 61G10-11.001 (2019).

<sup>162</sup> Section 481.310, F.S.

<sup>163</sup> Section 481.311(3), F.S.

<sup>164</sup> Fla. Admin. Code R. 61G10-11.004(2)(e) (2019).

<sup>165</sup> *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.<sup>166</sup>

### *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

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<sup>166</sup> 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.<sup>167</sup>

## **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:<sup>168</sup>

- 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.<sup>169</sup>

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.<sup>170</sup>

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

<sup>167</sup> See s. 481.319(6), F.S., and s. 558.0035, F.S.

<sup>168</sup> Sections 489.111(2)(c)1. through 3., F.S.

<sup>169</sup> Fla. Admin. Code R. 61G4-16.005 (2019).

<sup>170</sup> 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.<sup>171</sup>

### *Effect of Proposed Changes*

**Section 78** amends s. 489.103(9), F.S., to increase the maximum contract<sup>172</sup> 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).

<sup>171</sup> Section 489.103(9), F.S.

<sup>172</sup> 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.<sup>173</sup>

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.<sup>174</sup>

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.<sup>175</sup>

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.<sup>176</sup>

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.<sup>177</sup>

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<sup>173</sup> Sections 489.511(1)(a) and (b), F.S.

<sup>174</sup> Section 489.517(4), F.S.

<sup>175</sup> 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](https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1023&clientCode=0801&XACT_DEFN_ID=3688) (last visited Feb. 4, 2020).

<sup>176</sup> Section 489.505(25), F.S.

<sup>177</sup> 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.<sup>178</sup>

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.<sup>179</sup>

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.<sup>180</sup>

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.<sup>181</sup>

A professional geologist is not relieved of personal liability due to practicing as a business organization.<sup>182</sup>

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

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<sup>178</sup> Section 492.102(7), F.S.

<sup>179</sup> Section 492.105(1), F.S.

<sup>180</sup> Section 492.105(3), F.S.

<sup>181</sup> Section 492.111, F.S.

<sup>182</sup> *Id.*

Applicants for a geology business certificate of authorization must pay an application fee of \$350 and a biennial renewal fee of \$350.<sup>183</sup> 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:<sup>184</sup>

<sup>183</sup> Fla. Admin. Code R. 61G16-3.001 (2019).

<sup>184</sup> 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;<sup>185</sup>
- 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;<sup>186</sup> 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,<sup>187</sup> and mixed martial arts<sup>188</sup> by the Florida State Boxing Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.<sup>189</sup>

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<sup>185</sup> Other similar food service establishments are regulated under s. 381.0072, F.S.

<sup>186</sup> Vending machines located in a facility regulated under s. 381.0072, F.S. that dispense potentially hazardous foods are also excluded from the definition.

<sup>187</sup> 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.

<sup>188</sup> 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.

<sup>189</sup> *See* s. 548.003(1), F.S.

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida<sup>190</sup> that involves a professional.<sup>191</sup> Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.<sup>192</sup> 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.”<sup>193</sup>

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.<sup>194</sup> Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.<sup>195</sup> 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.<sup>196</sup>

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.<sup>197</sup>

In Fiscal Year 2018-2019, the commission issued licenses to eight announcers and 11 timekeepers.<sup>198</sup>

### *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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<sup>190</sup> See s. 548.006(1), F.S.

<sup>191</sup> 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.

<sup>192</sup> See s. 548.006(4), F.S.

<sup>193</sup> See s. 548.007(6), F.S., and see *supra* note 149 for the definition of “mixed martial arts.”

<sup>194</sup> See s. 548.006(3), F.S.

<sup>195</sup> Section 548.002(2), F.S.

<sup>196</sup> 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](http://www.myfloridalicense.com/dbpr/os/documents/Boxing18_19.pdf) at p. 6. (last visited on Feb. 4, 2020).

<sup>197</sup> 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.

<sup>198</sup> *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.<sup>199</sup>

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.<sup>200</sup>

- 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);

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<sup>199</sup> Chapter 2000-141, Laws of Fla.

<sup>200</sup> 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.<sup>201</sup>

The Commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.<sup>202</sup> 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.<sup>203</sup>

### *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;<sup>204</sup>
- 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:

<sup>201</sup> The chair is appointed by the Governor.

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

<sup>203</sup> *Id.*

<sup>204</sup> 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.<sup>205</sup> Since the definition of who is a registered interior designer has changed, this could be construed as a new fee for some

<sup>205</sup> 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.”<sup>206</sup>

**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.<sup>207</sup> 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.<sup>208</sup>

The fees received from the licensure of business agents and labor organizations will be eliminated, reducing expenditures by approximately \$830 annually.<sup>209</sup>

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.<sup>210</sup>

<sup>206</sup> FLA. CONST. art. VII, s. 19(d)(1)

<sup>207</sup> 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.

<sup>208</sup> 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).

<sup>209</sup> *Id.*

<sup>210</sup> *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.<sup>211</sup>

**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:<sup>212</sup>

**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.<sup>213</sup>

**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

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<sup>211</sup> *Id.*

<sup>212</sup> *Id.*

<sup>213</sup> *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).<sup>214</sup> Specifically:<sup>215</sup>

- 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.<sup>216</sup>

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).<sup>217</sup>

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.<sup>218</sup>

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<sup>214</sup> *Id.*

<sup>215</sup> *Id.*

<sup>216</sup> *Id.*

<sup>217</sup> 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).

<sup>218</sup> 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).<sup>219</sup> Federal law<sup>220</sup> 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.<sup>221</sup>

**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.<sup>222</sup> According to the FDLE,<sup>223</sup> the following standards employed by the FBI in approving Public Law 92-544 authorizations have

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<sup>219</sup> 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.

<sup>220</sup> Section 1128(b)(14) of the Social Security Act and 42 U.S.C. 1320a-7(b)(14).

<sup>221</sup> Florida Department of Health, *2019 Agency Analysis of SB 356* (Oct. 31, 2019).

<sup>222</sup> 28 C.F.R. s. 0.85(j) and 28 C.F.R. s. 50.12.

<sup>223</sup> 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:<sup>224</sup>

- 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.

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<sup>224</sup> 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, 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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11 according to the terms agreed to in the promissory note.

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

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

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

21 (2) STUDENT LOAN DEFAULT; DELINQUENCY.—The department or a  
22 board may not suspend or revoke a license that it has issued to  
23 any person who is in default on or delinquent in the payment of  
24 his or her student loans solely on the basis of such default or  
25 delinquency.

26 (3) WORK-CONDITIONAL SCHOLARSHIP DEFAULT.—The department or  
27 a board may not suspend or revoke a license that it has issued  
28 to any person who is in default on the satisfaction of the  
29 requirements of his or her work-conditional scholarship solely  
30 on the basis of such default.

31 Section 15. Paragraph (k) of subsection (1) of section  
32 456.072, Florida Statutes, is amended to read:

33 456.072 Grounds for discipline; penalties; enforcement.—

34 (1) The following acts shall constitute grounds for which  
35 the disciplinary actions specified in subsection (2) may be  
36 taken:

37 (k) Failing to perform any statutory or legal obligation  
38 placed upon a licensee. For purposes of this section, failing to  
39 repay a student loan issued or guaranteed by the state or the



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40 Federal Government in accordance with the terms of the loan is  
41 not or failing to comply with service scholarship obligations  
42 shall be considered a failure to perform a statutory or legal  
43 obligation, and the minimum disciplinary action imposed shall be  
44 a suspension of the license until new payment terms are agreed  
45 upon or the scholarship obligation is resumed, followed by  
46 probation for the duration of the student loan or remaining  
47 scholarship obligation period, and a fine equal to 10 percent of  
48 the defaulted loan amount. Fines collected shall be deposited  
49 into the Medical Quality Assurance Trust Fund.

50 Section 16. Section 456.0721, Florida Statutes, is  
51 repealed.

52 Section 17. Subsection (4) of section 456.074, Florida  
53 Statutes, is amended to read:

54 456.074 Certain health care practitioners; immediate  
55 suspension of license.-

56 ~~(4) Upon receipt of information that a Florida-licensed~~  
57 ~~health care practitioner has defaulted on a student loan issued~~  
58 ~~or guaranteed by the state or the Federal Government, the~~  
59 ~~department shall notify the licensee by certified mail that he~~  
60 ~~or she shall be subject to immediate suspension of license~~  
61 ~~unless, within 45 days after the date of mailing, the licensee~~  
62 ~~provides proof that new payment terms have been agreed upon by~~  
63 ~~all parties to the loan. The department shall issue an emergency~~  
64 ~~order suspending the license of any licensee who, after 45 days~~  
65 ~~following the date of mailing from the department, has failed to~~  
66 ~~provide such proof. Production of such proof shall not prohibit~~  
67 ~~the department from proceeding with disciplinary action against~~  
68 ~~the licensee pursuant to s. 456.073.~~



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69 Section 18. Paragraph (b) of subsection (7) of section  
70 468.385, Florida Statutes, is amended to read:

71 468.385 Licenses required; qualifications; examination.—

72 (7)

73 (b) A ~~No~~ business may not shall auction or offer to auction  
74 any property in this state unless it is owned by an auctioneer  
75 who is licensed as an auction business by the department board  
76 or is exempt from licensure under this act. Each application for  
77 licensure must shall include the names of the owner and the  
78 business, the business mailing address and location, and any  
79 other information which the board may require. The owner of an  
80 auction business shall report to the board within 30 days of any  
81 change in this required information.

82 Section 19. Section 468.401, Florida Statutes, is amended  
83 to read:

84 468.401 ~~Regulation of~~ Talent agencies; definitions.—As used  
85 in this part, the term ~~or any rule adopted pursuant hereto~~:

86 (8)(1) "Talent agency" means any person who, for  
87 compensation, engages in the occupation or business of procuring  
88 or attempting to procure engagements for an artist.

89 (6)(2) "Owner" means any partner in a partnership, member  
90 of a firm, or principal officer or officers of a corporation,  
91 whose partnership, firm, or corporation owns a talent agency, or  
92 any individual who is the sole owner of a talent agency.

93 (3) "Compensation" means any one or more of the following:

94 (a) Any money or other valuable consideration paid or  
95 promised to be paid for services rendered by any person  
96 conducting the business of a talent agency under this part;

97 (b) Any money received by any person in excess of that





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98 which has been paid out by such person for transportation,  
99 transfer of baggage, or board and lodging for any applicant for  
100 employment; or

101 (c) The difference between the amount of money received by  
102 any person who furnishes employees, performers, or entertainers  
103 for circus, vaudeville, theatrical, or other entertainments,  
104 exhibitions, engagements, or performances and the amount paid by  
105 him or her to such employee, performer, or entertainer.

106 (4) "Engagement" means any employment or placement of an  
107 artist, where the artist performs in his or her artistic  
108 capacity. However, the term "engagement" shall not apply to  
109 procuring opera, music, theater, or dance engagements for any  
110 organization defined in s. 501(c)(3) of the Internal Revenue  
111 Code or any nonprofit Florida arts organization that has  
112 received a grant from the Division of Cultural Affairs of the  
113 Department of State or has participated in the state touring  
114 program of the Division of Cultural Affairs.

115 ~~(5) "Department" means the Department of Business and~~  
116 ~~Professional Regulation.~~

117 (5)~~(6)~~ "Operator" means the person who is or who will be in  
118 actual charge of a talent agency.

119 (2)~~(7)~~ "Buyer" or "employer" means a person, company,  
120 partnership, or corporation that uses the services of a talent  
121 agency to provide artists.

122 (1)~~(8)~~ "Artist" means a person performing on the  
123 professional stage or in the production of television, radio, or  
124 motion pictures; a musician or group of musicians; or a model.

125 (7)~~(9)~~ "Person" means any individual, company, society,  
126 firm, partnership, association, corporation, manager, or any



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127 agent or employee of any of the foregoing.

128 ~~(10) "License" means a license issued by the Department of~~  
129 ~~Business and Professional Regulation to carry on the business of~~  
130 ~~a talent agency under this part.~~

131 ~~(11) "Licensee" means a talent agency which holds a valid~~  
132 ~~unrevoked and unforfeited license issued under this part.~~

133 Section 20. Section 468.402, Florida Statutes, is repealed.

134 Section 21. Section 468.403, Florida Statutes, is repealed.

135 Section 22. Section 468.404, Florida Statutes, is repealed.

136 Section 23. Section 468.405, Florida Statutes, is repealed.

137 Section 24. Subsection (1) of section 468.406, Florida  
138 Statutes, is amended to read:

139 468.406 Fees to be charged by talent agencies; rates;  
140 display.—

141 (1) Each owner or operator of a talent agency shall post in  
142 a conspicuous place in each place of business of the agency  
143 ~~applicant for a license shall file with the application an~~  
144 ~~itemized schedule of maximum fees, charges, and commissions that~~  
145 ~~which it intends to charge and collect for its services. The~~  
146 ~~This schedule may thereafter be raised only by filing with the~~  
147 ~~department an amended or supplemental schedule at least 30 days~~  
148 ~~before the change is to become effective. The schedule shall be~~  
149 ~~posted in a conspicuous place in each place of business of the~~  
150 ~~agency and~~ shall be printed in not less than a 30-point  
151 boldfaced type, except that an agency that uses written  
152 contracts containing maximum fee schedules need not post such  
153 schedules.

154 Section 25. Section 468.407, Florida Statutes, is repealed.

155 Section 26. Subsection (1) of section 468.408, Florida



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156 Statutes, is amended to read:

157 468.408 Bond required.—

158 (1) An owner or operator of a ~~There shall be filed with the~~  
159 ~~department for each~~ talent agency shall obtain ~~license~~ a bond in  
160 the form of a surety by a reputable company engaged in the  
161 bonding business and authorized to do business in this state.  
162 The bond shall be for the penal sum of \$5,000, with one or more  
163 sureties ~~to be approved by the department~~, and be conditioned  
164 that the owner or operator of the talent agency applicant  
165 conform to and not violate any of the duties, terms, conditions,  
166 provisions, or requirements of this part. Such bond may not be  
167 issued or renewed by the bonding agency unless each owner or  
168 operator of a talent agency submits fingerprints to the  
169 Department of Law Enforcement for a state criminal history  
170 record check and to the Federal Bureau of Investigation for a  
171 national criminal history record check, and the bonding agency  
172 verifies by examination of the criminal history records checks  
173 that each owner or operator has not been convicted of a crime  
174 that would require registration as a sexual offender, as  
175 required in s. 943.0435 or s. 944.607, or as a sexual predator,  
176 as required under s. 775.21.

177 (a) If any person is aggrieved by the misconduct of any  
178 talent agency, the person may maintain an action in his or her  
179 own name upon the bond of the agency in any court having  
180 jurisdiction of the amount claimed. All such claims shall be  
181 assignable, and the assignee shall be entitled to the same  
182 remedies, upon the bond of the agency or otherwise, as the  
183 person aggrieved would have been entitled to if such claim had  
184 not been assigned. Any claim or claims so assigned may be



185 enforced in the name of such assignee.

186 (b) The bonding company shall notify the talent agency  
187 ~~department~~ of any claim against such bond, and a copy of such  
188 notice shall be sent to the talent agency against which the  
189 claim is made.

190 Section 27. Section 468.409, Florida Statutes, is amended  
191 to read:

192 468.409 Records required to be kept.—Each talent agency  
193 shall keep on file the application, registration, or contract of  
194 each artist. In addition, such file must include the name and  
195 address of each artist, the amount of the compensation received,  
196 and all attempts to procure engagements for the artist. No such  
197 agency or employee thereof shall knowingly make any false entry  
198 in applicant files or receipt files. Each card or document in  
199 such files shall be preserved for a period of 1 year after the  
200 date of the last entry thereon. ~~Records required under this~~  
201 ~~section shall be readily available for inspection by the~~  
202 ~~department during reasonable business hours at the talent~~  
203 ~~agency's principal office. A talent agency must provide the~~  
204 ~~department with true copies of the records in the manner~~  
205 ~~prescribed by the department.~~

206 Section 28. Subsection (3) of section 468.410, Florida  
207 Statutes, is amended to read:

208 468.410 Prohibition against registration fees; referral.—

209 (3) A talent agency shall give each applicant a copy of a  
210 contract, within 24 hours after the contract's execution, which  
211 lists the services to be provided and the fees to be charged.  
212 ~~The contract shall state that the talent agency is regulated by~~  
213 ~~the department and shall list the address and telephone number~~



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214 ~~of the department.~~

215 Section 29. Present subsections (4) through (11) of section  
216 468.412, Florida Statutes, are redesignated as subsections (3)  
217 through (10), respectively, and present subsections (2), (3),  
218 (4), (6), and (11) of that section are amended to read:

219 468.412 Talent agency regulations; prohibited acts.—

220 (2) Each talent agency shall keep records in which shall be  
221 entered:

222 (a) The name and address of each artist employing such  
223 talent agency.†

224 (b) The amount of fees received from each such artist.†

225 (c) The employment in which each such artist is engaged at  
226 the time of employing such talent agency and the amount of  
227 compensation of the artist in such employment, if any, and the  
228 employments subsequently secured by such artist during the term  
229 of the contract between the artist and the talent agency and the  
230 amount of compensation received by the artist pursuant thereto.†  
231 and

232 ~~(d) Other information which the department may require from~~  
233 ~~time to time.~~

234 ~~(3) All books, records, and other papers kept pursuant to~~  
235 ~~this act by any talent agency shall be open at all reasonable~~  
236 ~~hours to the inspection of the department and its agents. Each~~  
237 ~~talent agency shall furnish to the department, upon request, a~~  
238 ~~true copy of such books, records, and papers, or any portion~~  
239 ~~thereof, and shall make such reports as the department may~~  
240 ~~prescribe from time to time.~~

241 (3)~~(4)~~ Each talent agency shall post in a conspicuous place  
242 in the office of such talent agency a printed copy of this part



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243 ~~and of the rules adopted under this part. Such copies shall also~~  
244 ~~contain the name and address of the officer charged with~~  
245 ~~enforcing this part. The department shall furnish to talent~~  
246 ~~agencies printed copies of any statute or rule required to be~~  
247 ~~posted under this subsection.~~

248 ~~(5)-(6)~~ A ~~No~~ talent agency may not publish or cause to be  
249 published any false, fraudulent, or misleading information,  
250 representation, notice, or advertisement. All advertisements of  
251 a talent agency by means of card, circulars, or signs, and in  
252 newspapers and other publications, and all letterheads,  
253 receipts, and blanks shall be printed and contain the ~~licensed~~  
254 ~~name, department license number,~~ and address of the talent  
255 agency and the words "talent agency." A ~~No~~ talent agency may not  
256 give any false information or make any false promises or  
257 representations concerning an engagement or employment to any  
258 applicant who applies for an engagement or employment.

259 ~~(10)-(11)~~ A talent agency may assign an engagement contract  
260 to another talent agency ~~licensed~~ in this state only if the  
261 artist agrees in writing to the assignment. The assignment must  
262 occur, and written notice of the assignment must be given to the  
263 artist, within 30 days after the artist agrees in writing to the  
264 assignment.

265 Section 30. Section 468.413, Florida Statutes, is amended  
266 to read:

267 468.413 Legal requirements; penalties.-

268 ~~(1) Each of the following acts constitutes a felony of the~~  
269 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~  
270 ~~or s. 775.084:~~

271 ~~(a) Owning or operating, or soliciting business as, a~~



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272 ~~talent agency in this state without first procuring a license~~  
273 ~~from the department.~~

274 ~~(b) Obtaining or attempting to obtain a license by means of~~  
275 ~~fraud, misrepresentation, or concealment.~~

276 ~~(1)(2)~~ Each of the following acts constitutes a misdemeanor  
277 of the second degree, punishable as provided in s. 775.082 or s.  
278 775.083:

279 ~~(a) Relocating a business as a talent agency, or operating~~  
280 ~~under any name other than that designated on the license, unless~~  
281 ~~written notification is given to the department and to the~~  
282 ~~surety or sureties on the original bond, and unless the license~~  
283 ~~is returned to the department for the recording thereon of such~~  
284 ~~changes.~~

285 ~~(b) Assigning or attempting to assign a license issued~~  
286 ~~under this part.~~

287 ~~(c) Failing to show on a license application whether or not~~  
288 ~~the agency or any owner of the agency is financially interested~~  
289 ~~in any other business of like nature and, if so, failing to~~  
290 ~~specify such interest or interests.~~

291 ~~(a)(d)~~ Failing to maintain the records required by s.  
292 468.409 or knowingly making false entries in such records.

293 ~~(b)(e)~~ Requiring as a condition to registering or obtaining  
294 employment or placement for any applicant that the applicant  
295 subscribe to, purchase, or attend any publication, postcard  
296 service, advertisement, resume service, photography service,  
297 school, acting school, workshop, or acting workshop.

298 ~~(c)(f)~~ Failing to give each applicant a copy of a contract  
299 which lists the services to be provided and the fees to be  
300 charged by, ~~which states that the talent agency is regulated by~~



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301 ~~the department, and which lists the address and telephone number~~  
302 ~~of the department.~~

303 ~~(d)(g)~~ Failing to maintain a record sheet as required by s.  
304 468.412(1).

305 ~~(e)(h)~~ Knowingly sending or causing to be sent any artist  
306 to a prospective employer or place of business, the character or  
307 operation of which employer or place of business the talent  
308 agency knows to be in violation of the laws of the United States  
309 or of this state.

310 ~~(3) The court may, in addition to other punishment provided~~  
311 ~~for in subsection (2), suspend or revoke the license of any~~  
312 ~~licensee under this part who has been found guilty of any~~  
313 ~~misdemeanor listed in subsection (2).~~

314 ~~(2)(4)~~ In the event that ~~the department or~~ any state  
315 attorney shall have probable cause to believe that a talent  
316 agency or other person has violated any provision of subsection  
317 (1), an action may be brought by ~~the department or~~ any state  
318 attorney to enjoin such talent agency or any person from  
319 continuing such violation, or engaging therein or doing any acts  
320 in furtherance thereof, and for such other relief as to the  
321 court seems appropriate. ~~In addition to this remedy, the~~  
322 ~~department may assess a penalty against any talent agency or any~~  
323 ~~person in an amount not to exceed \$5,000.~~

324 Section 31. Section 468.414, Florida Statutes, is repealed.

325 Section 32. Section 468.415, Florida Statutes, is amended  
326 to read:

327 468.415 Sexual misconduct in the operation of a talent  
328 agency.—The talent agent-artist relationship is founded on  
329 mutual trust. Sexual misconduct in the operation of a talent





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330 agency means violation of the talent agent-artist relationship  
331 through which the talent agent uses the relationship to induce  
332 or attempt to induce the artist to engage or attempt to engage  
333 in sexual activity. Sexual misconduct is prohibited in the  
334 operation of a talent agency. ~~If Any agent, owner, or operator~~  
335 ~~of a licensed talent agency who commits is found to have~~  
336 ~~committed sexual misconduct in the operation of a talent agency,~~  
337 ~~the agency license shall be permanently revoked. Such agent,~~  
338 ~~owner, or operator shall be permanently prohibited from acting~~  
339 ~~disqualified from present and future licensure as an agent,~~  
340 ~~owner, or operator of a Florida talent agency.~~

341 Section 33. Paragraph (n) is added to subsection (1) of  
342 section 468.505, Florida Statutes, to read:

343 468.505 Exemptions; exceptions.—

344 (1) Nothing in this part may be construed as prohibiting or  
345 restricting the practice, services, or activities of:

346 (n) A person who provides information, recommendations, or  
347 advice concerning nutrition, or who markets food, food  
348 materials, or dietary supplements for remuneration, if that  
349 person does not represent himself or herself as a dietitian,  
350 licensed dietitian, registered dietitian, licensed nutritionist,  
351 nutrition counselor, or licensed nutrition counselor, or use any  
352 word, letter, symbol, or insignia indicating or implying that he  
353 or she is a dietitian, nutritionist, or nutrition counselor.

354 Section 34. Subsection (4) of section 468.524, Florida  
355 Statutes, is amended to read:

356 468.524 Application for license.—

357 (4) ~~A An applicant or licensee~~ is ineligible to reapply for  
358 a license for a period of 1 year following final agency action



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359 on the ~~denial or~~ revocation of a license ~~applied for or~~ issued  
360 under this part. This time restriction does not apply to  
361 administrative ~~denials or~~ revocations entered because:

362 (a) The ~~applicant or~~ licensee has made an inadvertent error  
363 or omission on the application;

364 (b) The experience documented to the board was insufficient  
365 at the time of the previous application; or

366 ~~(c) The department is unable to complete the criminal~~  
367 ~~background investigation because of insufficient information~~  
368 ~~from the Florida Department of Law Enforcement, the Federal~~  
369 ~~Bureau of Investigation, or any other applicable law enforcement~~  
370 ~~agency;~~

371 ~~(c) (d)~~ The ~~applicant or~~ licensee has failed to submit  
372 required fees. ~~;~~ ~~or~~

373 ~~(e) An applicant or licensed employee leasing company has~~  
374 ~~been deemed ineligible for a license because of the lack of good~~  
375 ~~moral character of an individual or individuals when such~~  
376 ~~individual or individuals are no longer employed in a capacity~~  
377 ~~that would require their licensing under this part.~~

378 Section 35. Paragraph (f) of subsection (5) of section  
379 468.603, Florida Statutes, is amended to read:

380 468.603 Definitions.—As used in this part:

381 (5) "Categories of building code inspectors" include the  
382 following:

383 (f) "Residential One and two family dwelling inspector"  
384 means a person who is qualified to inspect and determine that  
385 one-family, two-family, or three-family residences not exceeding  
386 two habitable stories above no more than one uninhabitable story  
387 and accessory use structures in connection therewith ~~one and two~~



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388 ~~family dwellings and accessory structures~~ are constructed in  
389 accordance with the provisions of the governing building,  
390 plumbing, mechanical, accessibility, and electrical codes.

391 Section 36. Paragraph (c) of subsection (2) and paragraph  
392 (a) of subsection (7) of section 468.609, Florida Statutes, are  
393 amended to read:

394 468.609 Administration of this part; standards for  
395 certification; additional categories of certification.—

396 (2) A person may take the examination for certification as  
397 a building code inspector or plans examiner pursuant to this  
398 part if the person:

399 (c) Meets eligibility requirements according to one of the  
400 following criteria:

401 1. Demonstrates 4 ~~5~~ years' combined experience in the field  
402 of construction or a related field, building code inspection, or  
403 plans review corresponding to the certification category sought;

404 2. Demonstrates a combination of postsecondary education in  
405 the field of construction or a related field and experience  
406 which totals 3 ~~4~~ years, with at least 1 year of such total being  
407 experience in construction, building code inspection, or plans  
408 review;

409 3. Demonstrates a combination of technical education in the  
410 field of construction or a related field and experience which  
411 totals 3 ~~4~~ years, with at least 1 year of such total being  
412 experience in construction, building code inspection, or plans  
413 review;

414 4. Currently holds a standard certificate issued by the  
415 board or a firesafety inspector license issued pursuant to  
416 chapter 633, has a minimum of 3 years' verifiable full-time



417 experience in inspection or plan review, and has satisfactorily  
418 completed a building code inspector or plans examiner training  
419 program that provides at least 100 hours but not more than 200  
420 hours of cross-training in the certification category sought.  
421 The board shall establish by rule criteria for the development  
422 and implementation of the training programs. The board shall  
423 accept all classroom training offered by an approved provider if  
424 the content substantially meets the intent of the classroom  
425 component of the training program;

426         5. Demonstrates a combination of the completion of an  
427 approved training program in the field of building code  
428 inspection or plan review and a minimum of 2 years' experience  
429 in the field of building code inspection, plan review, fire code  
430 inspections and fire plans review of new buildings as a  
431 firesafety inspector certified under s. 633.216, or  
432 construction. The approved training portion of this requirement  
433 shall include proof of satisfactory completion of a training  
434 program that provides at least 200 hours but not more than 300  
435 hours of cross-training that is approved by the board in the  
436 chosen category of building code inspection or plan review in  
437 the certification category sought with at least 20 hours but not  
438 more than 30 hours of instruction in state laws, rules, and  
439 ethics relating to professional standards of practice, duties,  
440 and responsibilities of a certificateholder. The board shall  
441 coordinate with the Building Officials Association of Florida,  
442 Inc., to establish by rule the development and implementation of  
443 the training program. However, the board shall accept all  
444 classroom training offered by an approved provider if the  
445 content substantially meets the intent of the classroom



446 component of the training program;

447 6. Currently holds a standard certificate issued by the  
448 board or a firesafety inspector license issued pursuant to  
449 chapter 633 and:

450 a. Has at least 4 ~~5~~ years' verifiable full-time experience  
451 as an inspector or plans examiner in a standard certification  
452 category currently held or has a minimum of 4 ~~5~~ years'  
453 verifiable full-time experience as a firesafety inspector  
454 licensed pursuant to chapter 633.

455 b. Has satisfactorily completed a building code inspector  
456 or plans examiner classroom training course or program that  
457 provides at least 200 but not more than 300 hours in the  
458 certification category sought, except for one-family and two-  
459 family dwelling training programs, which must provide at least  
460 500 but not more than 800 hours of training as prescribed by the  
461 board. The board shall establish by rule criteria for the  
462 development and implementation of classroom training courses and  
463 programs in each certification category; or

464 7.a. Has completed a 4-year internship certification  
465 program as a building code inspector or plans examiner while  
466 employed full-time by a municipality, county, or other  
467 governmental jurisdiction, under the direct supervision of a  
468 certified building official. Proof of graduation with a related  
469 vocational degree or college degree or of verifiable work  
470 experience may be exchanged for the internship experience  
471 requirement year-for-year, but may reduce the requirement to no  
472 less than 1 year.

473 b. Has passed an examination administered by the  
474 International Code Council in the certification category sought.



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475 Such examination must be passed before beginning the internship  
476 certification program.

477 c. Has passed the principles and practice examination  
478 before completing the internship certification program.

479 d. Has passed a board-approved 40-hour code training course  
480 in the certification category sought before completing the  
481 internship certification program.

482 e. Has obtained a favorable recommendation from the  
483 supervising building official after completion of the internship  
484 certification program.

485 (7) (a) The board shall provide for the issuance of  
486 provisional certificates valid for 2 years ~~1 year~~, as specified  
487 by board rule, to any building code inspector or plans examiner  
488 who meets the eligibility requirements described in subsection  
489 (2) and any newly employed or promoted building code  
490 administrator who meets the eligibility requirements described  
491 in subsection (3). The provisional license may be renewed by the  
492 board for just cause; however, a provisional license is not  
493 valid for longer than 3 years.

494 Section 37. Section 468.613, Florida Statutes, is amended  
495 to read:

496 468.613 Certification by endorsement.—The board shall  
497 examine other certification or training programs, as applicable,  
498 upon submission to the board for its consideration of an  
499 application for certification by endorsement. The board shall  
500 waive its examination, qualification, education, or training  
501 requirements, to the extent that such examination,  
502 qualification, education, or training requirements of the  
503 applicant are determined by the board to be comparable with



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504 those established by the board. The board shall waive its  
505 examination, qualification, education, or training requirements  
506 if an applicant for certification by endorsement is at least 18  
507 years of age; is of good moral character; has held a valid  
508 building administrator, inspector, plans examiner, or the  
509 equivalent, certification issued by another state or territory  
510 of the United States for at least 10 years before the date of  
511 application; and has successfully passed an applicable  
512 examination administered by the International Code Council. Such  
513 application must be made either when the license in another  
514 state or territory is active or within 2 years after such  
515 license was last active.

516 Section 38. Subsection (3) of section 468.8314, Florida  
517 Statutes, is amended to read:

518 468.8314 Licensure.—

519 (3) The department shall certify as qualified for a license  
520 by endorsement an applicant who is of good moral character as  
521 determined in s. 468.8313, who maintains an insurance policy as  
522 required by s. 468.8322, and who:†

523 (a) Holds a valid license to practice home inspection  
524 services in another state or territory of the United States,  
525 whose educational requirements are substantially equivalent to  
526 those required by this part; and has passed a national,  
527 regional, state, or territorial licensing examination that is  
528 substantially equivalent to the examination required by this  
529 part; or

530 (b) Has held a valid license to practice home inspection  
531 services issued by another state or territory of the United  
532 States for at least 10 years before the date of application.



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533 Such application must be made either when the license in another  
534 state or territory is active or within 2 years after such  
535 license was last active.

536 Section 39. Subsection (5) of section 471.015, Florida  
537 Statutes, is amended to read:

538 471.015 Licensure.—

539 (5) (a) The board shall deem that an applicant who seeks  
540 licensure by endorsement has passed an examination substantially  
541 equivalent to the fundamentals examination when such applicant  
542 has held a valid professional engineer's license in another  
543 state for 10 ~~15~~ years and ~~has had 20 years of continuous~~  
544 ~~professional-level engineering experience.~~

545 (b) The board shall deem that an applicant who seeks  
546 licensure by endorsement has passed an examination substantially  
547 equivalent to the fundamentals examination and the principles  
548 and practices examination when such applicant has held a valid  
549 professional engineer's license in another state for 15 ~~25~~ years  
550 ~~and has had 30 years of continuous professional-level~~  
551 ~~engineering experience.~~

552 Section 40. Subsection (7) of section 473.308, Florida  
553 Statutes, is amended to read:

554 473.308 Licensure.—

555 (7) The board shall certify as qualified for a license by  
556 endorsement an applicant who:

557 (a) ~~1.~~ Is not licensed and has not been licensed in another  
558 state or territory and who has met the requirements of this  
559 section for education, work experience, and good moral character  
560 and has passed a national, regional, state, or territorial  
561 licensing examination that is substantially equivalent to the





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562 examination required by s. 473.306; or ~~and~~  
563       ~~2. Has completed such continuing education courses as the~~  
564 ~~board deems appropriate, within the limits for each applicable~~  
565 ~~2-year period as set forth in s. 473.312, but at least such~~  
566 ~~courses as are equivalent to the continuing education~~  
567 ~~requirements for a Florida certified public accountant licensed~~  
568 ~~in this state during the 2 years immediately preceding her or~~  
569 ~~his application for licensure by endorsement; or~~  
570       (b)1.~~a.~~ Holds a valid license to practice public accounting  
571 issued by another state or territory of the United States, if  
572 the criteria for issuance of such license were substantially  
573 equivalent to the licensure criteria that existed in this state  
574 at the time the license was issued;  
575       ~~2.b.~~ Holds a valid license to practice public accounting  
576 issued by another state or territory of the United States but  
577 the criteria for issuance of such license did not meet the  
578 requirements of subparagraph 1. ~~sub-subparagraph a.~~; has met the  
579 requirements of this section for education, work experience, and  
580 good moral character; and has passed a national, regional,  
581 state, or territorial licensing examination that is  
582 substantially equivalent to the examination required by s.  
583 473.306; or  
584       ~~3.c.~~ Holds a valid license to practice public accounting  
585 issued by another state or territory of the United States for at  
586 least 10 years before the date of application; has passed a  
587 national, regional, state, or territorial licensing examination  
588 that is substantially equivalent to the examination required by  
589 s. 473.306; and has met the requirements of this section for  
590 good moral character; ~~and~~



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591           ~~2. Has completed continuing education courses that are~~  
592 ~~equivalent to the continuing education requirements for a~~  
593 ~~Florida certified public accountant licensed in this state~~  
594 ~~during the 2 years immediately preceding her or his application~~  
595 ~~for licensure by endorsement.~~

596           Section 41. Subsection (6) of section 474.202, Florida  
597 Statutes, is amended to read:

598           474.202 Definitions.—As used in this chapter:

599           (6) "Limited-service veterinary medical practice" means  
600 offering or providing veterinary services at any location that  
601 has a primary purpose other than that of providing veterinary  
602 medical service at a permanent or mobile establishment permitted  
603 by the board; provides veterinary medical services for privately  
604 owned animals that do not reside at that location; operates for  
605 a limited time; and provides limited types of veterinary medical  
606 services, including vaccinations or immunizations against  
607 disease, preventative procedures for parasitic control, and  
608 microchipping.

609           Section 42. Paragraph (b) of subsection (2) of section  
610 474.207, Florida Statutes, is amended to read:

611           474.207 Licensure by examination.—

612           (2) The department shall license each applicant who the  
613 board certifies has:

614           (b)1. Graduated from a college of veterinary medicine  
615 accredited by the American Veterinary Medical Association  
616 Council on Education; or

617           2. Graduated from a college of veterinary medicine listed  
618 in the American Veterinary Medical Association Roster of  
619 Veterinary Colleges of the World and obtained a certificate from



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620 the Education Commission for Foreign Veterinary Graduates or the  
621 Program for the Assessment of Veterinary Education Equivalence.

622  
623 The department shall not issue a license to any applicant who is  
624 under investigation in any state or territory of the United  
625 States or in the District of Columbia for an act which would  
626 constitute a violation of this chapter until the investigation  
627 is complete and disciplinary proceedings have been terminated,  
628 at which time the provisions of s. 474.214 shall apply.

629 Section 43. Subsection (1) of section 474.217, Florida  
630 Statutes, is amended to read:

631 474.217 Licensure by endorsement.—

632 (1) The department shall issue a license by endorsement to  
633 any applicant who, upon applying to the department and remitting  
634 a fee set by the board, demonstrates to the board that she or  
635 he:

636 (a) Has demonstrated, in a manner designated by rule of the  
637 board, knowledge of the laws and rules governing the practice of  
638 veterinary medicine in this state; and

639 (b)1. ~~Either~~ Holds, and has held for the 3 years  
640 immediately preceding the application for licensure, a valid,  
641 active license to practice veterinary medicine in another state  
642 of the United States, the District of Columbia, or a territory  
643 of the United States, provided that the applicant has  
644 successfully completed a state, regional, national, or other  
645 examination that is equivalent to or more stringent than the  
646 examination required by the board ~~requirements for licensure in~~  
647 ~~the issuing state, district, or territory are equivalent to or~~  
648 ~~more stringent than the requirements of this chapter; or~~



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649           2. Meets the qualifications of s. 474.207(2)(b) and has  
650 successfully completed a state, regional, national, or other  
651 examination which is equivalent to or more stringent than the  
652 examination given by the department and has passed the board's  
653 clinical competency examination or another clinical competency  
654 examination specified by rule of the board.

655           Section 44. Effective January 1, 2021, subsection (2) of  
656 section 476.114, Florida Statutes, is amended to read:

657           476.114 Examination; prerequisites.—

658           (2) An applicant shall be eligible for licensure by  
659 examination to practice barbering if the applicant:

660           (a) Is at least 16 years of age;

661           (b) Pays the required application fee; and

662           (c)1. Holds an active valid license to practice barbering  
663 in another state, has held the license for at least 1 year, and  
664 does not qualify for licensure by endorsement as provided for in  
665 s. 476.144(5); or

666           2. Has received a minimum of 900 ~~1,200~~ hours of training in  
667 sanitation, safety, and laws and rules, as established by the  
668 board, which shall include, but shall not be limited to, the  
669 equivalent of completion of services directly related to the  
670 practice of barbering at one of the following:

671           a. A school of barbering licensed pursuant to chapter 1005;

672           b. A barbering program within the public school system; or

673           c. A government-operated barbering program in this state.

674

675 The board shall establish by rule procedures whereby the school  
676 or program may certify that a person is qualified to take the  
677 required examination after the completion of a minimum of 600



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678 ~~1,000~~ actual school hours. If the person passes the examination,  
679 she or he shall have satisfied this requirement; but if the  
680 person fails the examination, she or he shall not be qualified  
681 to take the examination again until the completion of the full  
682 requirements provided by this section.

683 Section 45. Subsection (5) of section 476.144, Florida  
684 Statutes, is amended to read:

685 476.144 Licensure.—

686 (5) The board shall certify as qualified for licensure by  
687 endorsement as a barber in this state an applicant who holds a  
688 current active license to practice barbering in another state.

689 The board shall adopt rules specifying procedures for the  
690 licensure by endorsement of practitioners desiring to be  
691 licensed in this state who hold a current active license in  
692 another ~~state or~~ country and who have met qualifications  
693 substantially similar to, equivalent to, or greater than the  
694 qualifications required of applicants from this state.

695 Section 46. Subsection (9) of section 477.013, Florida  
696 Statutes, is amended to read:

697 477.013 Definitions.—As used in this chapter:

698 (9) "Hair braiding" means the weaving or interweaving of  
699 natural human hair or commercial hair, including the use of hair  
700 extensions or wefts, for compensation without cutting, coloring,  
701 permanent waving, relaxing, removing, or chemical treatment ~~and~~  
702 ~~does not include the use of hair extensions or wefts.~~

703 Section 47. Section 477.0132, Florida Statutes, is  
704 repealed.

705 Section 48. Subsections (7) through (11) are added to  
706 section 477.0135, Florida Statutes, to read:



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707 477.0135 Exemptions.—

708 (7) A license or registration is not required for a person  
709 whose occupation or practice is confined solely to hair braiding  
710 as defined in s. 477.013(9).

711 (8) A license or registration is not required for a person  
712 whose occupation or practice is confined solely to hair wrapping  
713 as defined in s. 477.013(10).

714 (9) A license or registration is not required for a person  
715 whose occupation or practice is confined solely to body wrapping  
716 as defined in s. 477.013(12).

717 (10) A license or registration is not required for a person  
718 whose occupation or practice is confined solely to applying  
719 polish to fingernails and toenails.

720 (11) A license or registration is not required for a person  
721 whose occupation or practice is confined solely to the  
722 application or removal of any external preparation which is  
723 intended to cleanse, tone, color or beautify the face or neck,  
724 including, but not limited to, skin cleansers, astringents, skin  
725 fresheners, lipstick, eyeliner, eye shadow, foundation, rouge or  
726 check color, mascara, face powder or corrective stick, and other  
727 cosmetic products as defined by the board by rule.

728 Section 49. Subsections (6) and (7) of section 477.019,  
729 Florida Statutes, are amended to read:

730 477.019 Cosmetologists; qualifications; licensure;  
731 supervised practice; license renewal; endorsement; continuing  
732 education.—

733 (6) The board shall certify as qualified for licensure by  
734 endorsement as a cosmetologist in this state an applicant who  
735 holds a current active license to practice cosmetology in



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736 ~~another state. The board may not require proof of educational~~  
737 ~~hours if the license was issued in a state that requires 1,200~~  
738 ~~or more hours of prelicensure education and passage of a written~~  
739 ~~examination. This subsection does not apply to applicants who~~  
740 ~~received their license in another state through an~~  
741 ~~apprenticeship program.~~

742 (7) (a) The board shall prescribe by rule continuing  
743 education requirements intended to ensure protection of the  
744 public through updated training of licensees and registered  
745 specialists, not to exceed 10 ~~16~~ hours biennially, as a  
746 condition for renewal of a license or registration as a  
747 specialist under this chapter. Continuing education courses  
748 shall include, but not be limited to, the following subjects as  
749 they relate to the practice of cosmetology: human  
750 immunodeficiency virus and acquired immune deficiency syndrome;  
751 Occupational Safety and Health Administration regulations;  
752 workers' compensation issues; state and federal laws and rules  
753 as they pertain to cosmetologists, cosmetology, salons,  
754 specialists, specialty salons, and booth renters; chemical  
755 makeup as it pertains to hair, skin, and nails; and  
756 environmental issues. Courses given at cosmetology conferences  
757 may be counted toward the number of continuing education hours  
758 required if approved by the board.

759 ~~(b) Any person whose occupation or practice is confined~~  
760 ~~solely to hair braiding, hair wrapping, or body wrapping is~~  
761 ~~exempt from the continuing education requirements of this~~  
762 ~~subsection.~~

763 ~~(c)~~ The board may, by rule, require any licensee in  
764 violation of a continuing education requirement to take a



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765 refresher course or refresher course and examination in addition  
766 to any other penalty. The number of hours for the refresher  
767 course may not exceed 48 hours.

768 Section 50. Effective January 1, 2021, subsection (1) of  
769 section 477.0201, Florida Statutes, is amended to read:

770 477.0201 Specialty registration; qualifications;  
771 registration renewal; endorsement.-

772 (1) Any person is qualified for registration as a  
773 specialist in any ~~one or more of the~~ specialty practice  
774 ~~practices~~ within the practice of cosmetology under this chapter  
775 who:

776 (a) Is at least 16 years of age or has received a high  
777 school diploma.

778 (b) Has received a certificate of completion for: ~~in a~~

779 1. One hundred and eighty hours of training, as established  
780 by the board, which shall focus primarily on sanitation and  
781 safety, to practice specialties as defined in s. 477.013(6) (a)  
782 and (b); specialty pursuant to s. 477.013(6)

783 2. Two hundred and twenty hours of training, as established  
784 by the board, which shall focus primarily on sanitation and  
785 safety, to practice the specialty as defined in s.  
786 477.013(6) (c); or

787 3. Four hundred hours of training or the number of hours of  
788 training required to maintain minimum Pell Grant requirements,  
789 as established by the board, which shall focus primarily on  
790 sanitation and safety, to practice the specialties as defined in  
791 s. 477.013(6) (a)-(c).

792 (c) The certificate of completion specified in paragraph  
793 (b) must be from one of the following:





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- 794 1. A school licensed pursuant to s. 477.023.  
795 2. A school licensed pursuant to chapter 1005 or the  
796 equivalent licensing authority of another state.  
797 3. A specialty program within the public school system.  
798 4. A specialty division within the Cosmetology Division of  
799 the Florida School for the Deaf and the Blind, provided the  
800 training programs comply with minimum curriculum requirements  
801 established by the board.

802 Section 51. Paragraph (f) of subsection (1) of section  
803 477.026, Florida Statutes, is amended to read:

804 477.026 Fees; disposition.—

805 (1) The board shall set fees according to the following  
806 schedule:

807 ~~(f) For hair braiders, hair wrappers, and body wrappers,~~  
808 ~~fees for registration shall not exceed \$25.~~

809 Section 52. Subsection (4) of section 477.0263, Florida  
810 Statutes, is amended, and subsection (5) is added to that  
811 section, to read:

812 477.0263 Cosmetology services to be performed in licensed  
813 salon; exceptions.—

814 (4) Pursuant to rules adopted by the board, any cosmetology  
815 or specialty service may be performed in a location other than a  
816 licensed salon when the service is performed in connection with  
817 a special event and is performed by a person ~~who is employed by~~  
818 ~~a licensed salon and~~ who holds the proper license or specialty  
819 registration. ~~An appointment for the performance of any such~~  
820 ~~service in a location other than a licensed salon must be made~~  
821 ~~through a licensed salon.~~

822 (5) Hair shampooing, hair cutting, hair arranging, makeup



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823 application, nail polish removal, nail filing, nail buffing, and  
824 nail cleansing may be performed in a location other than a  
825 licensed salon when the service is performed by a person who  
826 holds the proper license.

827 Section 53. Paragraph (f) of subsection (1) of section  
828 477.0265, Florida Statutes, is amended to read:

829 477.0265 Prohibited acts.—

830 (1) It is unlawful for any person to:

831 (f) Advertise or imply that skin care services ~~or body~~  
832 ~~wrapping~~, as performed under this chapter, have any relationship  
833 to the practice of massage therapy as defined in s. 480.033(3),  
834 except those practices or activities defined in s. 477.013.

835 Section 54. Paragraph (a) of subsection (1) of section  
836 477.029, Florida Statutes, is amended to read:

837 477.029 Penalty.—

838 (1) It is unlawful for any person to:

839 (a) Hold himself or herself out as a cosmetologist or  
840 ~~specialist, hair wrapper, hair braider, or body wrapper~~ unless  
841 duly licensed or registered, or otherwise authorized, as  
842 provided in this chapter.

843 Section 55. Section 481.201, Florida Statutes, is amended  
844 to read:

845 481.201 Purpose.—The primary legislative purpose for  
846 enacting this part is to ensure that every architect practicing  
847 in this state meets minimum requirements for safe practice. It  
848 is the legislative intent that architects who fall below minimum  
849 competency or who otherwise present a danger to the public shall  
850 be prohibited from practicing in this state. ~~The Legislature~~  
851 ~~further finds that it is in the interest of the public to limit~~



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852 ~~the practice of interior design to interior designers or~~  
853 ~~architects who have the design education and training required~~  
854 ~~by this part or to persons who are exempted from the provisions~~  
855 ~~of this part.~~

856 Section 56. Section 481.203, Florida Statutes, is reordered  
857 and amended to read:

858 481.203 Definitions.—As used in this part, the term:

859 (3)~~(1)~~ "Board" means the Board of Architecture and Interior  
860 Design.

861 (7)~~(2)~~ "Department" means the Department of Business and  
862 Professional Regulation.

863 (1)~~(3)~~ "Architect" or "registered architect" means a  
864 natural person who is licensed under this part to engage in the  
865 practice of architecture.

866 (5)~~(4)~~ "Certificate of registration" means a license or  
867 registration issued by the department to a natural person to  
868 engage in the practice of architecture or interior design.

869 (4)~~(5)~~ "Business organization" means a partnership, a  
870 limited liability company, a corporation, or an individual  
871 operating under a fictitious name ~~"Certificate of authorization"~~  
872 ~~means a certificate issued by the department to a corporation or~~  
873 ~~partnership to practice architecture or interior design.~~

874 (2)~~(6)~~ "Architecture" means the rendering or offering to  
875 render services in connection with the design and construction  
876 of a structure or group of structures which have as their  
877 principal purpose human habitation or use, and the utilization  
878 of space within and surrounding such structures. These services  
879 include planning, providing preliminary study designs, drawings  
880 and specifications, job-site inspection, and administration of



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881 construction contracts.

882 ~~(16)(7)~~ "Townhouse" is a single-family dwelling unit not  
883 exceeding three stories in height which is constructed in a  
884 series or group of attached units with property lines separating  
885 such units. Each townhouse shall be considered a separate  
886 building and shall be separated from adjoining townhouses by the  
887 use of separate exterior walls meeting the requirements for zero  
888 clearance from property lines as required by the type of  
889 construction and fire protection requirements; or shall be  
890 separated by a party wall; or may be separated by a single wall  
891 meeting the following requirements:

892 (a) Such wall shall provide not less than 2 hours of fire  
893 resistance. Plumbing, piping, ducts, or electrical or other  
894 building services shall not be installed within or through the  
895 2-hour wall unless such materials and methods of penetration  
896 have been tested in accordance with the Standard Building Code.

897 (b) Such wall shall extend from the foundation to the  
898 underside of the roof sheathing, and the underside of the roof  
899 shall have at least 1 hour of fire resistance for a width not  
900 less than 4 feet on each side of the wall.

901 (c) Each dwelling unit sharing such wall shall be designed  
902 and constructed to maintain its structural integrity independent  
903 of the unit on the opposite side of the wall.

904 ~~(10)(8)~~ "Interior design" means designs, consultations,  
905 studies, drawings, specifications, and administration of design  
906 construction contracts relating to nonstructural interior  
907 elements of a building or structure. "Interior design" includes,  
908 but is not limited to, reflected ceiling plans, space planning,  
909 furnishings, and the fabrication of nonstructural elements



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910 within and surrounding interior spaces of buildings. "Interior  
911 design" specifically excludes the design of or the  
912 responsibility for architectural and engineering work, except  
913 for specification of fixtures and their location within interior  
914 spaces. As used in this subsection, "architectural and  
915 engineering interior construction relating to the building  
916 systems" includes, but is not limited to, construction of  
917 structural, mechanical, plumbing, heating, air-conditioning,  
918 ventilating, electrical, or vertical transportation systems, or  
919 construction which materially affects lifesafety systems  
920 pertaining to firesafety protection such as fire-rated  
921 separations between interior spaces, fire-rated vertical shafts  
922 in multistory structures, fire-rated protection of structural  
923 elements, smoke evacuation and compartmentalization, emergency  
924 ingress or egress systems, and emergency alarm systems.

925 (13)-(9) "Registered interior designer" ~~or "interior~~  
926 ~~designer"~~ means a natural person who holds a valid certificate  
927 of registration to practice interior design ~~is licensed under~~  
928 ~~this part.~~

929 (11)-(10) "Nonstructural element" means an element which  
930 does not require structural bracing and which is something other  
931 than a load-bearing wall, load-bearing column, or other load-  
932 bearing element of a building or structure which is essential to  
933 the structural integrity of the building.

934 (12)-(11) "Reflected ceiling plan" means a ceiling design  
935 plan which is laid out as if it were projected downward and  
936 which may include lighting and other elements.

937 (15)-(12) "Space planning" means the analysis, programming,  
938 or design of spatial requirements, including preliminary space



939 layouts and final planning.

940 ~~(6)-(13)~~ "Common area" means an area that is held out for  
941 use by all tenants or owners in a multiple-unit dwelling,  
942 including, but not limited to, a lobby, elevator, hallway,  
943 laundry room, clubhouse, or swimming pool.

944 ~~(8)-(14)~~ "Diversified interior design experience" means  
945 experience which substantially encompasses the various elements  
946 of interior design services set forth under the definition of  
947 "interior design" in subsection ~~(10)-(8)~~.

948 ~~(9)-(15)~~ "Interior decorator services" includes the  
949 selection or assistance in selection of surface materials,  
950 window treatments, wallcoverings, paint, floor coverings,  
951 surface-mounted lighting, surface-mounted fixtures, and loose  
952 furnishings not subject to regulation under applicable building  
953 codes.

954 ~~(14)-(16)~~ "Responsible supervising control" means the  
955 exercise of direct personal supervision and control throughout  
956 the preparation of documents, instruments of service, or any  
957 other work requiring the seal and signature of a licensee under  
958 this part.

959 Section 57. Paragraph (a) of subsection (3) of section  
960 481.205, Florida Statutes, is amended to read:

961 481.205 Board of Architecture and Interior Design.—

962 (3) (a) Notwithstanding the provisions of ss. 455.225,  
963 455.228, and 455.32, the duties and authority of the department  
964 to receive complaints and investigate and discipline persons  
965 licensed or registered under this part, including the ability to  
966 determine legal sufficiency and probable cause; to initiate  
967 proceedings and issue final orders for summary suspension or



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968 restriction of a license or certificate of registration pursuant  
969 to s. 120.60(6); to issue notices of noncompliance, notices to  
970 cease and desist, subpoenas, and citations; to retain legal  
971 counsel, investigators, or prosecutorial staff in connection  
972 with the licensed practice of architecture or registered ~~and~~  
973 interior design; and to investigate and deter the unlicensed  
974 practice of architecture ~~and interior design~~ as provided in s.  
975 455.228 are delegated to the board. All complaints and any  
976 information obtained pursuant to an investigation authorized by  
977 the board are confidential and exempt from s. 119.07(1) as  
978 provided in s. 455.225(2) and (10).

979 Section 58. Section 481.207, Florida Statutes, is amended  
980 to read:

981 481.207 Fees.—The board, by rule, may establish ~~separate~~  
982 fees for architects and registered interior designers, to be  
983 paid for applications, examination, reexamination, licensing and  
984 renewal, delinquency, reinstatement, and recordmaking and  
985 recordkeeping. The examination fee shall be in an amount that  
986 covers the cost of obtaining and administering the examination  
987 and shall be refunded if the applicant is found ineligible to  
988 sit for the examination. The application fee is nonrefundable.  
989 The fee for initial application and examination for architects  
990 ~~and interior designers~~ may not exceed \$775 plus the actual per  
991 applicant cost to the department for purchase of the examination  
992 from the National Council of Architectural Registration Boards  
993 ~~or the National Council of Interior Design Qualifications,~~  
994 ~~respectively,~~ or similar national organizations. The initial  
995 nonrefundable fee for registered interior designers may not  
996 exceed \$75. The biennial renewal fee for architects may not



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997 exceed \$200. The biennial renewal fee for registered interior  
998 designers may not exceed \$75 ~~\$500~~. The delinquency fee may not  
999 exceed the biennial renewal fee established by the board for an  
1000 active license. The board shall establish fees that are adequate  
1001 to ensure the continued operation of the board and to fund the  
1002 proportionate expenses incurred by the department which are  
1003 allocated to the regulation of architects and registered  
1004 interior designers. Fees shall be based on department estimates  
1005 of the revenue required to implement this part and the  
1006 provisions of law with respect to the regulation of architects  
1007 and interior designers.

1008 Section 59. Section 481.209, Florida Statutes, is amended  
1009 to read:

1010 481.209 Examinations.—

1011 (1) A person desiring to be licensed as a registered  
1012 architect by initial examination shall apply to the department,  
1013 complete the application form, and remit a nonrefundable  
1014 application fee. The department shall license any applicant who  
1015 the board certifies:

1016 ~~(a)~~ has passed the licensure examination prescribed by  
1017 board rule; and

1018 ~~(b)~~ is a graduate of a school or college of architecture  
1019 with a program accredited by the National Architectural  
1020 Accreditation Board.

1021 (2) A person seeking to obtain a certificate of  
1022 registration as a registered interior designer and a seal  
1023 pursuant to s. 481.221 must provide the department with his or  
1024 her name and address and written proof that he or she has  
1025 successfully passed the qualification examination prescribed by





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1026 the Council for Interior Design Qualification or its successor  
1027 entity or the California Council for Interior Design  
1028 Certification or its successor entity, or has successfully  
1029 passed an equivalent exam as determined by the department. Any  
1030 person who is licensed as an interior designer by the department  
1031 and who was in good standing as of July 1, 2020, is eligible to  
1032 obtain a certificate of registration as a registered interior  
1033 designer ~~A person desiring to be licensed as a registered~~  
1034 ~~interior designer shall apply to the department for licensure.~~  
1035 ~~The department shall administer the licensure examination for~~  
1036 ~~interior designers to each applicant who has completed the~~  
1037 ~~application form and remitted the application and examination~~  
1038 ~~fees specified in s. 481.207 and who the board certifies:~~  
1039       ~~(a) Is a graduate from an interior design program of 5~~  
1040 ~~years or more and has completed 1 year of diversified interior~~  
1041 ~~design experience;~~  
1042       ~~(b) Is a graduate from an interior design program of 4~~  
1043 ~~years or more and has completed 2 years of diversified interior~~  
1044 ~~design experience;~~  
1045       ~~(c) Has completed at least 3 years in an interior design~~  
1046 ~~curriculum and has completed 3 years of diversified interior~~  
1047 ~~design experience; or~~  
1048       ~~(d) Is a graduate from an interior design program of at~~  
1049 ~~least 2 years and has completed 4 years of diversified interior~~  
1050 ~~design experience.~~  
1051  
1052 ~~Subsequent to October 1, 2000, for the purpose of having the~~  
1053 ~~educational qualification required under this subsection~~  
1054 ~~accepted by the board, the applicant must complete his or her~~



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1055 ~~education at a program, school, or college of interior design~~  
1056 ~~whose curriculum has been approved by the board as of the time~~  
1057 ~~of completion. Subsequent to October 1, 2003, all of the~~  
1058 ~~required amount of educational credits shall have been obtained~~  
1059 ~~in a program, school, or college of interior design whose~~  
1060 ~~curriculum has been approved by the board, as of the time each~~  
1061 ~~educational credit is gained. The board shall adopt rules~~  
1062 ~~providing for the review and approval of programs, schools, and~~  
1063 ~~colleges of interior design and courses of interior design study~~  
1064 ~~based on a review and inspection by the board of the curriculum~~  
1065 ~~of programs, schools, and colleges of interior design in the~~  
1066 ~~United States, including those programs, schools, and colleges~~  
1067 ~~accredited by the Foundation for Interior Design Education~~  
1068 ~~Research. The board shall adopt rules providing for the review~~  
1069 ~~and approval of diversified interior design experience required~~  
1070 ~~by this subsection.~~

1071 Section 60. Section 481.213, Florida Statutes, is amended  
1072 to read:

1073 481.213 Licensure and registration.-

1074 (1) The department shall license or register any applicant  
1075 who the board certifies is qualified for licensure or  
1076 registration and who has paid the initial licensure or  
1077 registration fee. Licensure as an architect under this section  
1078 shall be deemed to include all the rights and privileges of  
1079 registration ~~licensure~~ as an interior designer under this  
1080 section.

1081 (2) The board shall certify for licensure or registration  
1082 by examination any applicant who passes the prescribed licensure  
1083 or registration examination and satisfies the requirements of



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1084 ss. 481.209 and 481.211, for architects, or the requirements of  
1085 s. 481.209, for interior designers.

1086 (3) The board shall certify as qualified for a license by  
1087 endorsement as an architect or registration as a registered ~~an~~  
1088 interior designer an applicant who:

1089 (a) Qualifies to take the prescribed licensure or  
1090 registration examination, and has passed the prescribed  
1091 licensure registration examination or a substantially equivalent  
1092 examination in another jurisdiction, as set forth in s. 481.209  
1093 for architects or registered interior designers, as applicable,  
1094 and has satisfied the internship requirements set forth in s.  
1095 481.211 for architects;

1096 (b) Holds a valid license to practice architecture or a  
1097 license, registration, or certification to practice interior  
1098 design issued by another jurisdiction of the United States, if  
1099 the criteria for issuance of such license were substantially  
1100 equivalent to the licensure criteria that existed in this state  
1101 at the time the license was issued; ~~provided, however, that an~~  
1102 ~~applicant who has been licensed for use of the title "interior~~  
1103 ~~design" rather than licensed to practice interior design shall~~  
1104 ~~not qualify hereunder;~~ or

1105 (c) Has passed the prescribed licensure examination and  
1106 holds a valid certificate issued by the National Council of  
1107 Architectural Registration Boards, and holds a valid license to  
1108 practice architecture issued by another state or jurisdiction of  
1109 the United States.

1110  
1111 An architect who is licensed in another state who seeks  
1112 qualification for license by endorsement under this subsection



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1113 must complete a 2-hour class approved by the board on the  
1114 Florida Building Code.

1115 (4) The board may refuse to certify any applicant who has  
1116 violated any of the provisions of s. 481.223, s. 481.225, or s.  
1117 481.2251, as applicable.

1118 (5) The board may refuse to certify any applicant who is  
1119 under investigation in any jurisdiction for any act which would  
1120 constitute a violation of this part or of chapter 455 until such  
1121 time as the investigation is complete and disciplinary  
1122 proceedings have been terminated.

1123 (6) The board shall adopt rules to implement the provisions  
1124 of this part relating to the examination, internship, and  
1125 licensure of applicants.

1126 (7) For persons whose licensure requires satisfaction of  
1127 the requirements of ss. 481.209 and 481.211, the board shall, by  
1128 rule, establish qualifications for certification of such persons  
1129 as special inspectors of threshold buildings, as defined in ss.  
1130 553.71 and 553.79, and shall compile a list of persons who are  
1131 certified. A special inspector is not required to meet standards  
1132 for certification other than those established by the board, and  
1133 the fee owner of a threshold building may not be prohibited from  
1134 selecting any person certified by the board to be a special  
1135 inspector. The board shall develop minimum qualifications for  
1136 the qualified representative of the special inspector who is  
1137 authorized under s. 553.79 to perform inspections of threshold  
1138 buildings on behalf of the special inspector.

1139 (8) A certificate of registration is not required for a  
1140 person whose occupation or practice is confined to interior  
1141 decorator services or for a person whose occupation or practice



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1142 is confined to interior design except as required in this part.

1143 Section 61. Subsection (1) of section 481.2131, Florida  
1144 Statutes, is amended to read:

1145 481.2131 Interior design; practice requirements; disclosure  
1146 of compensation for professional services.-

1147 (1) A registered interior designer is authorized to perform  
1148 "interior design" as defined in s. 481.203. Interior design  
1149 documents prepared by a registered interior designer shall  
1150 contain a statement that the document is not an architectural or  
1151 engineering study, drawing, specification, or design and is not  
1152 to be used for construction of any load-bearing columns, load-  
1153 bearing framing or walls of structures, or issuance of any  
1154 building permit, except as otherwise provided by law. Interior  
1155 design documents that are prepared and sealed by a registered  
1156 interior designer must ~~may~~, if required by a permitting body, be  
1157 accepted by the permitting body ~~be submitted~~ for the issuance of  
1158 a building permit for interior construction excluding design of  
1159 any structural, mechanical, plumbing, heating, air-conditioning,  
1160 ventilating, electrical, or vertical transportation systems or  
1161 that materially affect lifesafety systems pertaining to  
1162 firesafety protection such as fire-rated separations between  
1163 interior spaces, fire-rated vertical shafts in multistory  
1164 structures, fire-rated protection of structural elements, smoke  
1165 evacuation and compartmentalization, emergency ingress or egress  
1166 systems, and emergency alarm systems. Interior design documents  
1167 submitted for the issuance of a building permit by an individual  
1168 performing interior design services who is not a licensed  
1169 architect must include a seal issued by the department and in  
1170 conformance with the requirements of s. 481.221.



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1171 Section 62. Section 481.215, Florida Statutes, is amended  
1172 to read:

1173 481.215 Renewal of license or certificate of registration.—

1174 (1) Subject to the requirement of subsection (3), the  
1175 department shall renew a license or certificate of registration  
1176 upon receipt of the renewal application and renewal fee.

1177 (2) The department shall adopt rules establishing a  
1178 procedure for the biennial renewal of licenses and certificates  
1179 of registration.

1180 (3) A ~~No~~ license or certificate of registration renewal may  
1181 not shall be issued to an architect or a registered ~~an~~ interior  
1182 designer by the department until the licensee or registrant  
1183 submits proof satisfactory to the department that, during the 2  
1184 years before ~~prior to~~ application for renewal, the licensee or  
1185 registrant participated per biennium in not less than 20 hours  
1186 of at least 50 minutes each per biennium of continuing education  
1187 approved by the board. The board shall approve only continuing  
1188 education that builds upon the basic knowledge of architecture  
1189 or interior design. The board may make exception from the  
1190 requirements of continuing education in emergency or hardship  
1191 cases.

1192 (4) The board shall by rule establish criteria for the  
1193 approval of continuing education courses and providers and shall  
1194 by rule establish criteria for accepting alternative  
1195 nonclassroom continuing education on an hour-for-hour basis.

1196 (5) For a license or certificate of registration, the board  
1197 shall require, by rule adopted pursuant to ss. 120.536(1) and  
1198 120.54, 2 ~~a specified number of~~ hours in specialized or advanced  
1199 courses, ~~approved by the Florida Building Commission~~, on any



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1200 portion of the Florida Building Code, adopted pursuant to part  
1201 IV of chapter 553, relating to the licensee's respective area of  
1202 practice. Such hours count toward the continuing education hours  
1203 required under subsection (3). A licensee may complete the  
1204 courses required under this subsection online.

1205 Section 63. Section 481.217, Florida Statutes, is amended  
1206 to read:

1207 481.217 Inactive status.—

1208 (1) The board may prescribe by rule continuing education  
1209 requirements as a condition of reactivating a license. The rules  
1210 may not require more than one renewal cycle of continuing  
1211 education to reactivate a license or registration for a  
1212 registered architect or registered interior designer. ~~For~~  
1213 ~~interior design, the board may approve only continuing education~~  
1214 ~~that builds upon the basic knowledge of interior design.~~

1215 (2) The board shall adopt rules relating to application  
1216 procedures for inactive status and for the reactivation of  
1217 inactive licenses and registrations.

1218 Section 64. Section 481.219, Florida Statutes, is amended  
1219 to read:

1220 481.219 Qualification of business organizations  
1221 ~~certification of partnerships, limited liability companies, and~~  
1222 ~~corporations.—~~

1223 (1) A licensee may ~~The practice of or the offer to practice~~  
1224 ~~architecture or interior design by licensees~~ through a qualified  
1225 business organization that offers ~~corporation, limited liability~~  
1226 ~~company, or partnership offering architectural or interior~~  
1227 ~~design services to the public, or by a corporation, limited~~  
1228 ~~liability company, or partnership offering architectural or~~



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1229 ~~interior design services to the public through licensees under~~  
1230 ~~this part as agents, employees, officers, or partners, is~~  
1231 ~~permitted, subject to the provisions of this section.~~

1232 (2) If a licensee or an applicant proposes to engage in the  
1233 practice of architecture as a business organization, the  
1234 licensee or applicant shall qualify the business organization  
1235 upon approval of the board ~~For the purposes of this section, a~~  
1236 ~~certificate of authorization shall be required for a~~  
1237 ~~corporation, limited liability company, partnership, or person~~  
1238 ~~practicing under a fictitious name, offering architectural~~  
1239 ~~services to the public jointly or separately. However, when an~~  
1240 ~~individual is practicing architecture in her or his own name,~~  
1241 ~~she or he shall not be required to be certified under this~~  
1242 ~~section. Certification under this subsection to offer~~  
1243 ~~architectural services shall include all the rights and~~  
1244 ~~privileges of certification under subsection (3) to offer~~  
1245 ~~interior design services.~~

1246 (3) (a) A business organization may not engage in the  
1247 practice of architecture unless its qualifying agent is a  
1248 registered architect under this part. A qualifying agent who  
1249 terminates an affiliation with a qualified business organization  
1250 shall immediately notify the department of such termination. If  
1251 such qualifying agent is the only qualifying agent for that  
1252 business organization, the business organization must be  
1253 qualified by another qualifying agent within 60 days after the  
1254 termination. Except as provided in paragraph (b), the business  
1255 organization may not engage in the practice of architecture  
1256 until it is qualified by another qualifying agent.

1257 (b) In the event a qualifying agent ceases employment with





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1258 a qualified business organization, the executive director or the  
1259 chair of the board may authorize another registered architect  
1260 employed by the business organization to temporarily serve as  
1261 its qualifying agent for a period of no more than 60 days. The  
1262 business organization is not authorized to operate beyond such  
1263 period under this chapter absent replacement of the qualifying  
1264 agent who has ceased employment.

1265 (c) A qualifying agent shall notify the department in  
1266 writing before engaging in the practice of architecture in her  
1267 or his own name or in affiliation with a different business  
1268 organization, and she or he or such business organization shall  
1269 supply the same information to the department as required of  
1270 applicants under this part.

1271 ~~(3) For the purposes of this section, a certificate of~~  
1272 ~~authorization shall be required for a corporation, limited~~  
1273 ~~liability company, partnership, or person operating under a~~  
1274 ~~fictitious name, offering interior design services to the public~~  
1275 ~~jointly or separately. However, when an individual is practicing~~  
1276 ~~interior design in her or his own name, she or he shall not be~~  
1277 ~~required to be certified under this section.~~

1278 (4) All final construction documents and instruments of  
1279 service which include drawings, specifications, plans, reports,  
1280 or other papers or documents that involve ~~involving~~ the practice  
1281 of architecture which are prepared or approved for the use of  
1282 the business organization ~~corporation, limited liability~~  
1283 ~~company, or partnership~~ and filed for public record within the  
1284 state must ~~shall~~ bear the signature and seal of the licensee who  
1285 prepared or approved them and the date on which they were  
1286 sealed.



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1287           ~~(5) All drawings, specifications, plans, reports, or other~~  
1288 ~~papers or documents prepared or approved for the use of the~~  
1289 ~~corporation, limited liability company, or partnership by an~~  
1290 ~~interior designer in her or his professional capacity and filed~~  
1291 ~~for public record within the state shall bear the signature and~~  
1292 ~~seal of the licensee who prepared or approved them and the date~~  
1293 ~~on which they were sealed.~~

1294           ~~(6) The department shall issue a certificate of~~  
1295 ~~authorization to any applicant who the board certifies as~~  
1296 ~~qualified for a certificate of authorization and who has paid~~  
1297 ~~the fee set in s. 481.207.~~

1298           ~~(7) The board shall allow a licensee or certify an~~  
1299 ~~applicant to qualify one or more business organizations as~~  
1300 ~~qualified for a certificate of authorization to offer~~  
1301 ~~architectural or interior design services, or to use a~~  
1302 ~~fictitious name to offer such services, if provided that:~~

1303           ~~(a) one or more of the principal officers of the~~  
1304 ~~corporation or limited liability company, or one or more~~  
1305 ~~partners of the partnership, and all personnel of the~~  
1306 ~~corporation, limited liability company, or partnership who act~~  
1307 ~~in its behalf in this state as architects, are registered as~~  
1308 ~~provided by this part; ~~or~~~~

1309           ~~(b) One or more of the principal officers of the~~  
1310 ~~corporation or one or more partners of the partnership, and all~~  
1311 ~~personnel of the corporation, limited liability company, or~~  
1312 ~~partnership who act in its behalf in this state as interior~~  
1313 ~~designers, are registered as provided by this part.~~

1314           ~~(8) The department shall adopt rules establishing a~~  
1315 ~~procedure for the biennial renewal of certificates of~~



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1316 authorization.

1317 ~~(9) The department shall renew a certificate of~~  
1318 ~~authorization upon receipt of the renewal application and~~  
1319 ~~biennial renewal fee.~~

1320 ~~(6)(10)~~ Each qualifying agent who qualifies a business  
1321 organization, partnership, limited liability company, or ~~and~~  
1322 corporation certified under this section shall notify the  
1323 department within 30 days after ~~of~~ any change in the information  
1324 contained in the application upon which the qualification  
1325 ~~certification~~ is based. Any registered architect or interior  
1326 designer who qualifies the business organization shall ensure  
1327 ~~corporation, limited liability company, or partnership as~~  
1328 ~~provided in subsection (7) shall be responsible for ensuring~~  
1329 responsible supervising control of projects of the business  
1330 organization entity and shall notify the department of the ~~upon~~  
1331 termination of her or his employment with a business  
1332 organization qualified partnership, limited liability company,  
1333 ~~or corporation certified under this section shall notify the~~  
1334 ~~department of the termination~~ within 30 days after such  
1335 termination.

1336 ~~(7)(11)~~ A business organization is not ~~No corporation,~~  
1337 ~~limited liability company, or partnership shall be relieved of~~  
1338 responsibility for the conduct or acts of its agents, employees,  
1339 or officers by reason of its compliance with this section.  
1340 However, except as provided in s. 558.0035, the architect who  
1341 signs and seals the construction documents and instruments of  
1342 service is ~~shall be~~ liable for the professional services  
1343 performed, and the interior designer who signs and seals the  
1344 interior design drawings, plans, or specifications shall be



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1345 liable for the professional services performed.

1346 ~~(12) Disciplinary action against a corporation, limited~~  
1347 ~~liability company, or partnership shall be administered in the~~  
1348 ~~same manner and on the same grounds as disciplinary action~~  
1349 ~~against a registered architect or interior designer,~~  
1350 ~~respectively.~~

1351 ~~(8) (13) Nothing in This section may not shall~~ be construed  
1352 to mean that a certificate of registration to practice  
1353 architecture must ~~or interior design shall~~ be held by a business  
1354 organization ~~corporation, limited liability company, or~~  
1355 ~~partnership. Nothing in This section does not prohibit a~~  
1356 business organization from offering ~~prohibits corporations,~~  
1357 ~~limited liability companies, and partnerships from joining~~  
1358 ~~together to offer architectural, engineering, interior design,~~  
1359 ~~surveying and mapping, and landscape architectural services, or~~  
1360 ~~any combination of such services, to the public if the business~~  
1361 organization, ~~provided that each corporation, limited liability~~  
1362 ~~company, or partnership otherwise meets the requirements of law.~~

1363 ~~(14) Corporations, limited liability companies, or~~  
1364 ~~partnerships holding a valid certificate of authorization to~~  
1365 ~~practice architecture shall be permitted to use in their title~~  
1366 ~~the term "interior designer" or "registered interior designer."~~

1367 Section 65. Subsections (5) and (10) of section 481.221,  
1368 Florida Statutes, are amended to read:

1369 481.221 Seals; display of certificate number.—

1370 (5) No registered interior designer shall affix, or permit  
1371 to be affixed, her or his seal or signature to any plan,  
1372 specification, drawing, or other document which depicts work  
1373 which she or he is not competent or registered ~~licensed~~ to



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1374 perform.

1375           (10) Each registered architect must ~~or interior designer,~~  
1376 ~~and each corporation, limited liability company, or partnership~~  
1377 ~~holding a certificate of authorization, shall include her or his~~  
1378 license its certificate number in any newspaper, telephone  
1379 directory, or other advertising medium used by the registered  
1380 licensee. Each business organization must include the license  
1381 number of the registered architect who serves as the qualifying  
1382 agent for that business organization in any newspaper, telephone  
1383 directory, or other advertising medium used by the business  
1384 organization ~~architect, interior designer, corporation, limited~~  
1385 ~~liability company, or partnership. A corporation, limited~~  
1386 ~~liability company, or partnership is not required to display the~~  
1387 ~~certificate number of individual registered architects or~~  
1388 ~~interior designers employed by or working within the~~  
1389 ~~corporation, limited liability company, or partnership.~~

1390           Section 66. Section 481.223, Florida Statutes, is amended  
1391 to read:

1392           481.223 Prohibitions; penalties; injunctive relief.-

1393           (1) A person may not knowingly:

1394           (a) Practice architecture unless the person is an architect  
1395 or a registered architect; however, a licensed architect who has  
1396 been licensed by the board and who chooses to relinquish or not  
1397 to renew his or her license may use the title "Architect,  
1398 Retired" but may not otherwise render any architectural  
1399 services.

1400           ~~(b) Practice interior design unless the person is a~~  
1401 ~~registered interior designer unless otherwise exempted herein;~~  
1402 ~~however, an interior designer who has been licensed by the board~~



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1403 ~~and who chooses to relinquish or not to renew his or her license~~  
1404 ~~may use the title "Interior Designer, Retired" but may not~~  
1405 ~~otherwise render any interior design services.~~

1406 (b) ~~(e)~~ Use the name or title "architect," ~~or~~ "registered  
1407 architect," or ~~"interior designer"~~ ~~or~~ "registered interior  
1408 designer," ~~or words to that effect,~~ when the person is not then  
1409 the holder of a valid license or certificate of registration  
1410 issued pursuant to this part. This paragraph does not restrict  
1411 the use of the name or title "interior designer" or "interior  
1412 design firm."

1413 (c) ~~(d)~~ Present as his or her own the license of another.

1414 (d) ~~(e)~~ Give false or forged evidence to the board or a  
1415 member thereof.

1416 (e) ~~(f)~~ Use or attempt to use an architect ~~or interior~~  
1417 ~~designer~~ license or interior design certificate of registration  
1418 that has been suspended, revoked, or placed on inactive or  
1419 delinquent status.

1420 (f) ~~(g)~~ Employ unlicensed persons to practice architecture  
1421 ~~or interior design.~~

1422 (g) ~~(h)~~ Conceal information relative to violations of this  
1423 part.

1424 (2) Any person who violates any provision of subsection (1)  
1425 commits a misdemeanor of the first degree, punishable as  
1426 provided in s. 775.082 or s. 775.083.

1427 (3) (a) Notwithstanding chapter 455 or any other law to the  
1428 contrary, an affected person may maintain an action for  
1429 injunctive relief to restrain or prevent a person from violating  
1430 paragraph (1) (a) or, paragraph (1) (b), ~~or paragraph (1) (c).~~ The  
1431 prevailing party is entitled to actual costs and attorney's



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1432 fees.

1433 (b) For purposes of this subsection, the term "affected  
1434 person" means a person directly affected by the actions of a  
1435 person suspected of violating paragraph (1)(a) or, paragraph  
1436 (1)(b), ~~or paragraph (1)(c)~~ and includes, but is not limited to,  
1437 the department, any person who received services from the  
1438 alleged violator, or any private association composed primarily  
1439 of members of the profession the alleged violator is practicing  
1440 or offering to practice or holding himself or herself out as  
1441 qualified to practice.

1442 Section 67. Section 481.2251, Florida Statutes, is amended  
1443 to read:

1444 481.2251 Disciplinary proceedings against registered  
1445 interior designers.—

1446 (1) The following acts constitute grounds for which the  
1447 disciplinary actions specified in subsection (2) may be taken:

1448 (a) Attempting to register ~~obtain, obtaining,~~ or renewing  
1449 registration, by bribery, by fraudulent misrepresentation, or  
1450 through an error of the board, ~~a license to practice interior~~  
1451 ~~design;~~

1452 (b) Having an interior design license, certification, or  
1453 registration ~~a license to practice interior design~~ revoked,  
1454 suspended, or otherwise acted against, including the denial of  
1455 licensure, registration, or certification by the licensing  
1456 authority of another jurisdiction for any act which would  
1457 constitute a violation of this part or of chapter 455;

1458 (c) Being convicted or found guilty, ~~regardless of~~  
1459 ~~adjudication,~~ of a crime in any jurisdiction which directly  
1460 relates to the provision of interior design services or to the



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1461 ability to provide interior design services. ~~A plea of nolo~~  
1462 ~~contendere shall create a rebuttable presumption of guilt to the~~  
1463 ~~underlying criminal charges. However, the board shall allow the~~  
1464 ~~person being disciplined to present any evidence relevant to the~~  
1465 ~~underlying charges and the circumstances surrounding her or his~~  
1466 ~~plea;~~

1467 (d) False, deceptive, or misleading advertising;

1468 (e) ~~Failing to report to the board any person who the~~  
1469 ~~licensee knows is in violation of this part or the rules of the~~  
1470 ~~board;~~

1471 (f) ~~Aiding, assisting, procuring, or advising any~~  
1472 ~~unlicensed person to use the title "interior designer" contrary~~  
1473 ~~to this part or to a rule of the board;~~

1474 (g) ~~Failing to perform any statutory or legal obligation~~  
1475 ~~placed upon a registered interior designer;~~

1476 (h) Making or filing a report which the registrant licensee  
1477 knows to be false, intentionally or negligently failing to file  
1478 a report or record required by state or federal law, or  
1479 willfully impeding or obstructing such filing or inducing  
1480 another person to do so. Such reports or records shall include  
1481 only those which are signed in the capacity as a registered  
1482 interior designer;

1483 (f) ~~(i)~~ Making deceptive, untrue, or fraudulent  
1484 representations in the provision of interior design services;

1485 (g) ~~(j)~~ Accepting and performing professional  
1486 responsibilities which the registrant licensee knows or has  
1487 reason to know that she or he is not competent ~~or licensed~~ to  
1488 perform;

1489 (k) ~~Violating any provision of this part, any rule of the~~





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1490 ~~board, or a lawful order of the board previously entered in a~~  
1491 ~~disciplinary hearing;~~

1492 ~~(l) Conspiring with another licensee or with any other~~  
1493 ~~person to commit an act, or committing an act, which would tend~~  
1494 ~~to coerce, intimidate, or preclude another licensee from~~  
1495 ~~lawfully advertising her or his services;~~

1496 ~~(m) Acceptance of compensation or any consideration by an~~  
1497 ~~interior designer from someone other than the client without~~  
1498 ~~full disclosure of the compensation or consideration amount or~~  
1499 ~~value to the client prior to the engagement for services, in~~  
1500 ~~violation of s. 481.2131(2);~~

1501 ~~(h) ~~(n)~~ Rendering or offering to render architectural~~  
1502 ~~services; or~~

1503 ~~(i) ~~(o)~~ Committing an act of fraud or deceit, or of~~  
1504 ~~negligence, incompetency, or misconduct, in the practice of~~  
1505 ~~interior design, including, but not limited to, allowing the~~  
1506 ~~preparation of any interior design studies, plans, or other~~  
1507 ~~instruments of service in an office that does not have a full-~~  
1508 ~~time Florida-registered interior designer assigned to such~~  
1509 ~~office or failing to exercise responsible supervisory control~~  
1510 ~~over services or projects, as required by board rule.~~

1511 (2) When the board finds any person guilty of any of the  
1512 grounds set forth in subsection (1), it may enter an order  
1513 taking the following action or imposing one or more of the  
1514 following penalties:

1515 (a) Refusal to register the applicant ~~approve an~~  
1516 ~~application for licensure;~~

1517 (b) Refusal to renew an existing registration ~~license;~~

1518 (c) Removal from the state registry ~~Revocation or~~



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1519 ~~suspension of a license; or~~

1520 (d) Imposition of an administrative fine not to exceed \$500  
1521 ~~\$1,000~~ for each violation or separate offense and a fine of up  
1522 to \$2,500 ~~\$5,000~~ for matters pertaining to a material violation  
1523 of the Florida Building Code as reported by a local  
1524 jurisdiction; ~~or~~

1525 ~~(e) Issuance of a reprimand.~~

1526 Section 68. Paragraph (b) of subsection (5), and  
1527 subsections (6), and (8) of section 481.229, Florida Statutes,  
1528 are amended to read:

1529 481.229 Exceptions; exemptions from licensure.-

1530 (5)

1531 (b) Notwithstanding any other provision of this part, all  
1532 persons licensed as architects under this part shall be  
1533 qualified for interior design registration licensure upon  
1534 submission of a completed application for such license and a fee  
1535 not to exceed \$30. Such persons shall be exempt from the  
1536 requirements of s. 481.209(2). For architects licensed as  
1537 interior designers, satisfaction of the requirements for renewal  
1538 of licensure as an architect under s. 481.215 shall be deemed to  
1539 satisfy the requirements for renewal of registration licensure  
1540 as an interior designer under that section. Complaint  
1541 processing, investigation, or other discipline-related legal  
1542 costs related to persons licensed as interior designers under  
1543 this paragraph shall be assessed against the architects' account  
1544 of the Regulatory Trust Fund.

1545 (6) This part shall not apply to:

1546 ~~(a) A person who performs interior design services or~~  
1547 ~~interior decorator services for any residential application,~~



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1548 ~~provided that such person does not advertise as, or represent~~  
1549 ~~himself or herself as, an interior designer. For purposes of~~  
1550 ~~this paragraph, "residential applications" includes all types of~~  
1551 ~~residences, including, but not limited to, residence buildings,~~  
1552 ~~single-family homes, multifamily homes, townhouses, apartments,~~  
1553 ~~condominiums, and domestic outbuildings appurtenant to one-~~  
1554 ~~family or two-family residences. However, "residential~~  
1555 ~~applications" does not include common areas associated with~~  
1556 ~~instances of multiple-unit dwelling applications.~~

1557       ~~(b)~~ an employee of a retail establishment providing  
1558 "interior decorator services" on the premises of the retail  
1559 establishment or in the furtherance of a retail sale or  
1560 prospective retail sale, provided that such employee does not  
1561 advertise as, or represent himself or herself as, an interior  
1562 designer.

1563       (8) A manufacturer of commercial food service equipment or  
1564 the manufacturer's representative, distributor, or dealer or an  
1565 employee thereof, who prepares designs, specifications, or  
1566 layouts for the sale or installation of such equipment is exempt  
1567 from licensure as an architect ~~or interior designer~~, if:

1568       (a) The designs, specifications, or layouts are not used  
1569 for construction or installation that may affect structural,  
1570 mechanical, plumbing, heating, air conditioning, ventilating,  
1571 electrical, or vertical transportation systems.

1572       (b) The designs, specifications, or layouts do not  
1573 materially affect lifesafety systems pertaining to firesafety  
1574 protection, smoke evacuation and compartmentalization, and  
1575 emergency ingress or egress systems.

1576       (c) Each design, specification, or layout document prepared



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1577 by a person or entity exempt under this subsection contains a  
1578 statement on each page of the document that the designs,  
1579 specifications, or layouts are not architectural, ~~interior~~  
1580 ~~design~~, or engineering designs, specifications, or layouts and  
1581 not used for construction unless reviewed and approved by a  
1582 licensed architect or engineer.

1583 Section 69. Subsection (1) of section 481.231, Florida  
1584 Statutes, is amended to read:

1585 481.231 Effect of part locally.—

1586 (1) ~~Nothing in~~ This part does not ~~shall be construed to~~  
1587 repeal, amend, limit, or otherwise affect any specific provision  
1588 of any local building code or zoning law or ordinance that has  
1589 been duly adopted, now or hereafter enacted, which is more  
1590 restrictive, with respect to the services of registered  
1591 architects or registered interior designers, than ~~the provisions~~  
1592 ~~of~~ this part; provided, however, that a licensed architect shall  
1593 be deemed registered ~~licensed~~ as an interior designer for  
1594 purposes of offering or rendering interior design services to a  
1595 county, municipality, or other local government or political  
1596 subdivision.

1597 Section 70. Section 481.303, Florida Statutes, is amended  
1598 to read:

1599 481.303 Definitions.—As used in this chapter, the term:

1600 (1) "Board" means the Board of Landscape Architecture.

1601 (3) ~~(2)~~ "Department" means the Department of Business and  
1602 Professional Regulation.

1603 (6) ~~(3)~~ "Registered landscape architect" means a person who  
1604 holds a license to practice landscape architecture in this state  
1605 under the authority of this act.



1606           (2)~~(4)~~ "Certificate of registration" means a license issued  
1607 by the department to a natural person to engage in the practice  
1608 of landscape architecture.

1609           ~~(5) "Certificate of authorization" means a license issued~~  
1610 ~~by the department to a corporation or partnership to engage in~~  
1611 ~~the practice of landscape architecture.~~

1612           (4)~~(6)~~ "Landscape architecture" means professional  
1613 services, including, but not limited to, the following:

1614           (a) Consultation, investigation, research, planning,  
1615 design, preparation of drawings, specifications, contract  
1616 documents and reports, responsible construction supervision, or  
1617 landscape management in connection with the planning and  
1618 development of land and incidental water areas, including the  
1619 use of Florida-friendly landscaping as defined in s. 373.185,  
1620 where, and to the extent that, the dominant purpose of such  
1621 services or creative works is the preservation, conservation,  
1622 enhancement, or determination of proper land uses, natural land  
1623 features, ground cover and plantings, or naturalistic and  
1624 aesthetic values;

1625           (b) The determination of settings, grounds, and approaches  
1626 for and the siting of buildings and structures, outdoor areas,  
1627 or other improvements;

1628           (c) The setting of grades, shaping and contouring of land  
1629 and water forms, determination of drainage, and provision for  
1630 storm drainage and irrigation systems where such systems are  
1631 necessary to the purposes outlined herein; and

1632           (d) The design of such tangible objects and features as are  
1633 necessary to the purpose outlined herein.

1634           (5)~~(7)~~ "Landscape design" means consultation for and



1635 preparation of planting plans drawn for compensation, including  
1636 specifications and installation details for plant materials,  
1637 soil amendments, mulches, edging, gravel, and other similar  
1638 materials. Such plans may include only recommendations for the  
1639 conceptual placement of tangible objects for landscape design  
1640 projects. Construction documents, details, and specifications  
1641 for tangible objects and irrigation systems shall be designed or  
1642 approved by licensed professionals as required by law.

1643 Section 71. Section 481.310, Florida Statutes, is amended  
1644 to read:

1645 481.310 Practical experience requirement.—Beginning October  
1646 1, 1990, every applicant for licensure as a registered landscape  
1647 architect shall demonstrate, prior to licensure, 1 year of  
1648 practical experience in landscape architectural work. An  
1649 applicant who holds a master of landscape architecture degree  
1650 and a bachelor's degree in a related field is not required to  
1651 demonstrate 1 year of practical experience in landscape  
1652 architectural work to obtain licensure. The board shall adopt  
1653 rules providing standards for the required experience. An  
1654 applicant who qualifies for examination pursuant to s.  
1655 481.309(1)(b)1. may obtain the practical experience after  
1656 completing the required professional degree. Experience used to  
1657 qualify for examination pursuant to s. 481.309(1)(b)2. may not  
1658 be used to satisfy the practical experience requirement under  
1659 this section.

1660 Section 72. Subsections (3) and (4) of section 481.311,  
1661 Florida Statutes, are amended, to read:

1662 481.311 Licensure.—

1663 (3) The board shall certify as qualified for a license by



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1664 endorsement an applicant who:

1665 ~~(a) Qualifies to take the examination as set forth in s.~~  
1666 ~~481.309; and has passed a national, regional, state, or~~  
1667 ~~territorial licensing examination which is substantially~~  
1668 ~~equivalent to the examination required by s. 481.309; or~~

1669 ~~(b) holds a valid license to practice landscape~~  
1670 ~~architecture issued by another state or territory of the United~~  
1671 ~~States, if the criteria for issuance of such license were~~  
1672 ~~substantially identical to the licensure criteria which existed~~  
1673 ~~in this state at the time the license was issued.~~

1674 ~~(4) The board shall certify as qualified for a certificate~~  
1675 ~~of authorization any applicant corporation or partnership who~~  
1676 ~~satisfies the requirements of s. 481.319.~~

1677 Section 73. Subsection (4) of section 481.313, Florida  
1678 Statutes, is amended to read:

1679 481.313 Renewal of license.—

1680 (4) The board, by rule adopted pursuant to ss. 120.536(1)  
1681 and 120.54, shall establish criteria for the approval of  
1682 continuing education courses and providers, and shall by rule  
1683 establish criteria for accepting alternative nonclassroom  
1684 continuing education on an hour-for-hour basis. A landscape  
1685 architect shall receive hour-for-hour credit for attending  
1686 continuing education courses approved by the Landscape  
1687 Architecture Continuing Education System or another nationally  
1688 recognized clearinghouse for continuing education that relate to  
1689 and increase his or her basic knowledge of landscape  
1690 architecture, as determined by the board, if the landscape  
1691 architect submits proof satisfactory to the board that such  
1692 course was approved by the Landscape Architecture Continuing



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1693 Education System or another nationally recognized clearinghouse  
1694 for continuing education, along with the syllabus or outline for  
1695 such course and proof of course attendance.

1696 Section 74. Subsection (2) of section 481.317, Florida  
1697 Statutes, is amended to read:

1698 481.317 Temporary certificates.-

1699 ~~(2) Upon approval by the board and payment of the fee set~~  
1700 ~~in s. 481.307, the department shall grant a temporary~~  
1701 ~~certificate of authorization for work on one specified project~~  
1702 ~~in this state for a period not to exceed 1 year to an out-of-~~  
1703 ~~state corporation, partnership, or firm, provided one of the~~  
1704 ~~principal officers of the corporation, one of the partners of~~  
1705 ~~the partnership, or one of the principals in the fictitiously~~  
1706 ~~named firm has obtained a temporary certificate of registration~~  
1707 ~~in accordance with subsection (1).~~

1708 Section 75. Section 481.319, Florida Statutes, is amended  
1709 to read:

1710 481.319 Corporate and partnership practice of landscape  
1711 architecture; ~~certificate of authorization.-~~

1712 (1) The practice of or offer to practice landscape  
1713 architecture by registered landscape architects registered under  
1714 this part through a corporation or partnership offering  
1715 landscape architectural services to the public, or through a  
1716 corporation or partnership offering landscape architectural  
1717 services to the public through individual registered landscape  
1718 architects as agents, employees, officers, or partners, is  
1719 permitted, subject to the provisions of this section, if:

1720 (a) One or more of the principal officers of the  
1721 corporation, or partners of the partnership, and all personnel





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1722 of the corporation or partnership who act in its behalf as  
1723 landscape architects in this state are registered landscape  
1724 architects; and

1725 (b) One or more of the officers, one or more of the  
1726 directors, one or more of the owners of the corporation, or one  
1727 or more of the partners of the partnership is a registered  
1728 landscape architect; ~~and~~

1729 ~~(c) The corporation or partnership has been issued a~~  
1730 ~~certificate of authorization by the board as provided herein.~~

1731 (2) All documents involving the practice of landscape  
1732 architecture which are prepared for the use of the corporation  
1733 or partnership shall bear the signature and seal of a registered  
1734 landscape architect.

1735 (3) A landscape architect applying to practice in the name  
1736 of a An applicant corporation must shall file with the  
1737 department the names and addresses of all officers and board  
1738 members of the corporation, including the principal officer or  
1739 officers, duly registered to practice landscape architecture in  
1740 this state and, also, of all individuals duly registered to  
1741 practice landscape architecture in this state who shall be in  
1742 responsible charge of the practice of landscape architecture by  
1743 the corporation in this state. A landscape architect applying to  
1744 practice in the name of a An applicant partnership must shall  
1745 file with the department the names and addresses of all partners  
1746 of the partnership, including the partner or partners duly  
1747 registered to practice landscape architecture in this state and,  
1748 also, of an individual or individuals duly registered to  
1749 practice landscape architecture in this state who shall be in  
1750 responsible charge of the practice of landscape architecture by



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1751 said partnership in this state.

1752 (4) Each landscape architect qualifying a partnership or  
1753 ~~and corporation licensed~~ under this part must ~~shall~~ notify the  
1754 department within 1 month after ~~of~~ any change in the information  
1755 contained in the application upon which the license is based.  
1756 Any landscape architect who terminates her or his ~~or her~~  
1757 employment with a partnership or corporation licensed under this  
1758 part shall notify the department of the termination within 1  
1759 month after such termination.

1760 (5) ~~Disciplinary action against a corporation or~~  
1761 ~~partnership shall be administered in the same manner and on the~~  
1762 ~~same grounds as disciplinary action against a registered~~  
1763 ~~landscape architect.~~

1764 ~~(6)~~ Except as provided in s. 558.0035, the fact that a  
1765 registered landscape architect practices landscape architecture  
1766 through a corporation or partnership as provided in this section  
1767 does not relieve the landscape architect from personal liability  
1768 for her or his ~~or her~~ professional acts.

1769 Section 76. Subsection (5) of section 481.321, Florida  
1770 Statutes, is amended to read:

1771 481.321 Seals; display of certificate number.—

1772 (5) Each registered landscape architect must ~~and each~~  
1773 ~~corporation or partnership holding a certificate of~~  
1774 ~~authorization shall~~ include her or his ~~its~~ certificate number in  
1775 any newspaper, telephone directory, or other advertising medium  
1776 used by the registered landscape architect, corporation, or  
1777 partnership. A corporation or partnership must ~~is not required~~  
1778 ~~to~~ display the certificate number ~~numbers~~ of at least one  
1779 officer, director, owner, or partner who is a individual



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1780 registered landscape architect ~~architects~~ employed by or  
1781 practicing with the corporation or partnership.

1782 Section 77. Subsection (5) of section 481.329, Florida  
1783 Statutes, is amended to read:

1784 481.329 Exceptions; exemptions from licensure.—

1785 (5) This part does not prohibit any person from engaging in  
1786 the practice of landscape design, as defined in s. 481.303 ~~s.~~  
1787 ~~481.303(7)~~, or from submitting for approval to a governmental  
1788 agency planting plans that are independent of, or a component  
1789 of, construction documents that are prepared by a Florida-  
1790 registered professional. Persons providing landscape design  
1791 services shall not use the title, term, or designation  
1792 "landscape architect," "landscape architectural," "landscape  
1793 architecture," "L.A.," "landscape engineering," or any  
1794 description tending to convey the impression that she or he is a  
1795 landscape architect unless she or he is registered as provided  
1796 in this part.

1797 Section 78. Subsection (9) of section 489.103, Florida  
1798 Statutes, is amended to read:

1799 489.103 Exemptions.—This part does not apply to:

1800 (9) Any work or operation of a casual, minor, or  
1801 inconsequential nature in which the aggregate contract price for  
1802 labor, materials, and all other items is less than \$2,500  
1803 ~~\$1,000~~, but this exemption does not apply:

1804 (a) If the construction, repair, remodeling, or improvement  
1805 is a part of a larger or major operation, whether undertaken by  
1806 the same or a different contractor, or in which a division of  
1807 the operation is made in contracts of amounts less than \$2,500  
1808 ~~\$1,000~~ for the purpose of evading this part or otherwise.



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1809 (b) To a person who advertises that he or she is a  
1810 contractor or otherwise represents that he or she is qualified  
1811 to engage in contracting.

1812 Section 79. Subsection (2) of section 489.111, Florida  
1813 Statutes, is amended to read:

1814 489.111 Licensure by examination.—

1815 (2) A person shall be eligible for licensure by examination  
1816 if the person:

1817 (a) Is 18 years of age;

1818 (b) Is of good moral character; and

1819 (c) Meets eligibility requirements according to one of the  
1820 following criteria:

1821 1. Has received a baccalaureate degree from an accredited  
1822 4-year college in the appropriate field of engineering,  
1823 architecture, or building construction and has 1 year of proven  
1824 experience in the category in which the person seeks to qualify.  
1825 For the purpose of this part, a minimum of 2,000 person-hours  
1826 shall be used in determining full-time equivalency. An applicant  
1827 who is exempt from passing an examination under s. 489.113(1) is  
1828 eligible for a license under this section.

1829 2. Has a total of at least 4 years of active experience as  
1830 a worker who has learned the trade by serving an apprenticeship  
1831 as a skilled worker who is able to command the rate of a  
1832 mechanic in the particular trade or as a foreman who is in  
1833 charge of a group of workers and usually is responsible to a  
1834 superintendent or a contractor or his or her equivalent,  
1835 provided, however, that at least 1 year of active experience  
1836 shall be as a foreman.

1837 3. Has a combination of not less than 1 year of experience



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1838 as a foreman and not less than 3 years of credits for any  
1839 accredited college-level courses; has a combination of not less  
1840 than 1 year of experience as a skilled worker, 1 year of  
1841 experience as a foreman, and not less than 2 years of credits  
1842 for any accredited college-level courses; or has a combination  
1843 of not less than 2 years of experience as a skilled worker, 1  
1844 year of experience as a foreman, and not less than 1 year of  
1845 credits for any accredited college-level courses. All junior  
1846 college or community college-level courses shall be considered  
1847 accredited college-level courses.

1848 4.a. An active certified residential contractor is eligible  
1849 to receive a certified building contractor license after passing  
1850 or having previously passed ~~take~~ the building contractors'  
1851 examination if he or she possesses a minimum of 3 years of  
1852 proven experience in the classification in which he or she is  
1853 certified.

1854 b. An active certified residential contractor is eligible  
1855 to receive a certified general contractor license after passing  
1856 or having previously passed ~~take~~ the general contractors'  
1857 examination if he or she possesses a minimum of 4 years of  
1858 proven experience in the classification in which he or she is  
1859 certified.

1860 c. An active certified building contractor is eligible to  
1861 receive a certified general contractor license after passing or  
1862 having previously passed ~~take~~ the general contractors'  
1863 examination if he or she possesses a minimum of 4 years of  
1864 proven experience in the classification in which he or she is  
1865 certified.

1866 5.a. An active certified air-conditioning Class C



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1867 contractor is eligible to receive a certified air-conditioning  
1868 Class B contractor license after passing or having previously  
1869 passed ~~take~~ the air-conditioning Class B contractors'  
1870 examination if he or she possesses a minimum of 3 years of  
1871 proven experience in the classification in which he or she is  
1872 certified.

1873         b. An active certified air-conditioning Class C contractor  
1874 is eligible to receive a certified air-conditioning Class A  
1875 contractor license after passing or having previously passed  
1876 ~~take~~ the air-conditioning Class A contractors' examination if he  
1877 or she possesses a minimum of 4 years of proven experience in  
1878 the classification in which he or she is certified.

1879         c. An active certified air-conditioning Class B contractor  
1880 is eligible to receive a certified air-conditioning Class A  
1881 contractor license after passing or having previously passed  
1882 ~~take~~ the air-conditioning Class A contractors' examination if he  
1883 or she possesses a minimum of 1 year of proven experience in the  
1884 classification in which he or she is certified.

1885         6.a. An active certified swimming pool servicing contractor  
1886 is eligible to receive a certified residential swimming pool  
1887 contractor license after passing or having previously passed  
1888 ~~take~~ the residential swimming pool contractors' examination if  
1889 he or she possesses a minimum of 3 years of proven experience in  
1890 the classification in which he or she is certified.

1891         b. An active certified swimming pool servicing contractor  
1892 is eligible to receive a certified commercial swimming pool  
1893 contractor license after passing or having previously passed  
1894 ~~take~~ the swimming pool commercial contractors' examination if he  
1895 or she possesses a minimum of 4 years of proven experience in



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1896 the classification in which he or she is certified.

1897 c. An active certified residential swimming pool contractor  
1898 is eligible to receive a certified commercial swimming pool  
1899 contractor license after passing or having previously passed  
1900 ~~take~~ the commercial swimming pool contractors' examination if he  
1901 or she possesses a minimum of 1 year of proven experience in the  
1902 classification in which he or she is certified.

1903 d. An applicant is eligible to receive a certified swimming  
1904 pool/spa servicing contractor license after passing or having  
1905 previously passed ~~take~~ the swimming pool/spa servicing  
1906 contractors' examination if he or she has satisfactorily  
1907 completed 60 hours of instruction in courses related to the  
1908 scope of work covered by that license and approved by the  
1909 Construction Industry Licensing Board by rule and has at least 1  
1910 year of proven experience related to the scope of work of such a  
1911 contractor.

1912 Section 80. Subsection (1) of section 489.113, Florida  
1913 Statutes, is amended to read:

1914 489.113 Qualifications for practice; restrictions.—

1915 (1) Any person who desires to engage in contracting on a  
1916 statewide basis shall, as a prerequisite thereto, establish his  
1917 or her competency and qualifications to be certified pursuant to  
1918 this part. To establish competency, a person shall pass the  
1919 appropriate examination approved by the board and certified by  
1920 the department. If an applicant has received a baccalaureate  
1921 degree in building construction from an accredited 4-year  
1922 college, or a related degree as approved by the board by rule,  
1923 and has a grade point average of 3.5 or higher, such applicant  
1924 is not required to pass such examination. Any person who desires



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1925 to engage in contracting on other than a statewide basis shall,  
1926 as a prerequisite thereto, be registered pursuant to this part,  
1927 unless exempted by this part.

1928 Section 81. Subsection (3) of section 489.115, Florida  
1929 Statutes, is amended to read:

1930 489.115 Certification and registration; endorsement;  
1931 reciprocity; renewals; continuing education.—

1932 (3) The board shall certify as qualified for certification  
1933 by endorsement any applicant who:

1934 (a) Meets the requirements for certification as set forth  
1935 in this section; has passed a national, regional, state, or  
1936 United States territorial licensing examination that is  
1937 substantially equivalent to the examination required by this  
1938 part; and has satisfied the requirements set forth in s.  
1939 489.111;

1940 (b) Holds a valid license to practice contracting issued by  
1941 another state or territory of the United States, if the criteria  
1942 for issuance of such license were substantially equivalent to  
1943 Florida's current certification criteria; ~~or~~

1944 (c) Holds a valid, current license to practice contracting  
1945 issued by another state or territory of the United States, if  
1946 the state or territory has entered into a reciprocal agreement  
1947 with the board for the recognition of contractor licenses issued  
1948 in that state, based on criteria for the issuance of such  
1949 licenses that are substantially equivalent to the criteria for  
1950 certification in this state; or

1951 (d) Has held a valid, current license to practice  
1952 contracting issued by another state or territory of the United  
1953 States for at least 10 years before the date of application and





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1954 is applying for the same or similar license in this state,  
1955 subject to subsections (5)-(9). The board may consider whether  
1956 such applicant has had a license to practice contracting  
1957 revoked, suspended, or otherwise acted against by the licensing  
1958 authority of another state, territory, or country. Such  
1959 application must be made either when the license in another  
1960 state or territory is active or within 2 years after such  
1961 license was last active. Division I contractors and roofing  
1962 contractors must complete a 2-hour course on the Florida  
1963 Building Code which includes information on wind mitigation  
1964 techniques. The required courses may be completed online.

1965 Section 82. Subsection (5) of section 489.511, Florida  
1966 Statutes, is amended to read:

1967 489.511 Certification; application; examinations;  
1968 endorsement.—

1969 (5) The board shall certify as qualified for certification  
1970 by endorsement any individual applying for certification who:

1971 (a) Meets the requirements for certification as set forth  
1972 in this section; has passed a national, regional, state, or  
1973 United States territorial licensing examination that is  
1974 substantially equivalent to the examination required by this  
1975 part; and has satisfied the requirements set forth in s.  
1976 489.521; ~~or~~

1977 (b) Holds a valid license to practice electrical or alarm  
1978 system contracting issued by another state or territory of the  
1979 United States, if the criteria for issuance of such license was  
1980 substantially equivalent to the certification criteria that  
1981 existed in this state at the time the certificate was issued; or

1982 (c) Has held a valid, current license to practice



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1983 electrical or alarm system contracting issued by another state  
1984 or territory of the United States for at least 10 years before  
1985 the date of application and is applying for the same or similar  
1986 license in this state, subject to ss. 489.510 and 489.521(3) (a),  
1987 and subparagraph (1) (b)1. Such application must be made either  
1988 when the license in another state or territory is active or  
1989 within 2 years after such license was last active. Electrical  
1990 contractors and alarm system contractors must complete a 2-hour  
1991 course on the Florida Building Code which includes information  
1992 on wind mitigation techniques. The required courses may be  
1993 completed online.

1994       Section 83. Subsection (3) and paragraph (b) of subsection  
1995 (4) of section 489.517, Florida Statutes, are amended to read:  
1996       489.517 Renewal of certificate or registration; continuing  
1997 education.—

1998       (3) (a) Each certificateholder or registrant licensed as a  
1999 specialty contractor or an alarm system contractor shall provide  
2000 proof, in a form established by rule of the board, that the  
2001 certificateholder or registrant has completed at least 7 ~~14~~  
2002 classroom hours of at least 50 minutes each of continuing  
2003 education courses during each biennium since the issuance or  
2004 renewal of the certificate or registration. The board shall by  
2005 rule establish criteria for the approval of continuing education  
2006 courses and providers and may by rule establish criteria for  
2007 accepting alternative nonclassroom continuing education on an  
2008 hour-for-hour basis.

2009       (b) Each certificateholder or registrant licensed as an  
2010 electrical contractor shall provide proof, in a form established  
2011 by rule of the board, that the certificateholder or registrant



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2012 has completed at least 11 classroom hours of at least 50 minutes  
2013 each of continuing education courses during each biennium since  
2014 the issuance or renewal of the certificate or registration. The  
2015 board shall by rule establish criteria for the approval of  
2016 continuing education courses and providers and may by rule  
2017 establish criteria for accepting alternative nonclassroom  
2018 continuing education on an hour-for-hour basis.

2019 (4)

2020 (b)1. For licensed specialty contractors or alarm system  
2021 contractors, of the 7 ~~14~~ classroom hours of continuing education  
2022 required, at least 1 hour ~~7 hours~~ must be on technical subjects,  
2023 1 hour on workers' compensation, 1 hour on workplace safety, 1  
2024 hour on business practices, and ~~for alarm system contractors and~~  
2025 ~~electrical contractors engaged in alarm system contracting,~~ 2  
2026 hours on false alarm prevention.

2027 2. For licensed electrical contractors, of the minimum 11  
2028 classroom hours of continuing education required, at least 7  
2029 hours must be on technical subjects, 1 hour on workers'  
2030 compensation, 1 hour on workplace safety, and 1 hour on business  
2031 practices. Electrical contractors engaged in alarm system  
2032 contracting must also complete 2 hours on false alarm  
2033 prevention.

2034 Section 84. Paragraph (b) of subsection (1) of section  
2035 489.518, Florida Statutes, is amended to read:

2036 489.518 Alarm system agents.—

2037 (1) A licensed electrical or alarm system contractor may  
2038 not employ a person to perform the duties of a burglar alarm  
2039 system agent unless the person:

2040 (b) Has successfully completed a minimum of 14 hours of



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2041 training within 90 days after employment, to include basic alarm  
2042 system electronics in addition to related training including  
2043 CCTV and access control training, with at least 2 hours of  
2044 training in the prevention of false alarms. Such training shall  
2045 be from a board-approved provider, and the employee or applicant  
2046 for employment shall provide proof of successful completion to  
2047 the licensed employer. The board shall by rule establish  
2048 criteria for the approval of training courses and providers and  
2049 may by rule establish criteria for accepting alternative  
2050 nonclassroom education on an hour-for-hour basis. The board  
2051 shall approve providers that conduct training in other than the  
2052 English language. The board shall establish a fee for the  
2053 approval of training providers or courses, not to exceed \$60.  
2054 Qualified employers may conduct training classes for their  
2055 employees, with board approval.

2056 Section 85. Section 492.104, Florida Statutes, is amended,  
2057 to read:

2058 492.104 Rulemaking authority.—The Board of Professional  
2059 Geologists has authority to adopt rules pursuant to ss.  
2060 120.536(1) and 120.54 to implement this chapter. Every licensee  
2061 shall be governed and controlled by this chapter and the rules  
2062 adopted by the board. The board is authorized to set, by rule,  
2063 fees for application, examination, ~~certificate of authorization,~~  
2064 late renewal, initial licensure, and license renewal. These fees  
2065 may should not exceed the cost of implementing the application,  
2066 examination, initial licensure, and license renewal or other  
2067 administrative process and shall be established as follows:

2068 (1) The application fee shall not exceed \$150 and shall be  
2069 nonrefundable.



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2070 (2) The examination fee shall not exceed \$250, and the fee  
2071 may be apportioned to each part of a multipart examination. The  
2072 examination fee shall be refundable in whole or part if the  
2073 applicant is found to be ineligible to take any portion of the  
2074 licensure examination.

2075 (3) The initial license fee shall not exceed \$100.

2076 (4) The biennial renewal fee shall not exceed \$150.

2077 ~~(5) The fee for a certificate of authorization shall not~~  
2078 ~~exceed \$350 and the fee for renewal of the certificate shall not~~  
2079 ~~exceed \$350.~~

2080 (5)~~(6)~~ The fee for reactivation of an inactive license may  
2081 ~~shall~~ not exceed \$50.

2082 (6)~~(7)~~ The fee for a provisional license may ~~shall~~ not  
2083 exceed \$400.

2084 (7)~~(8)~~ The fee for application, examination, and licensure  
2085 for a license by endorsement is ~~shall be~~ as provided in this  
2086 section for licenses in general.

2087 Section 86. Subsection (1) of section 492.108, Florida  
2088 Statutes, is amended to read:

2089 492.108 Licensure by endorsement; requirements; fees.—

2090 (1) The department shall issue a license by endorsement to  
2091 any applicant who, upon applying to the department and remitting  
2092 an application fee, has been certified by the board that he or  
2093 she:

2094 (a) Has met the qualifications for licensure in s.  
2095 492.105(1) (b)–(e) and:-

2096 1.~~(b)~~ Is the holder of an active license in good standing  
2097 in a state, trust, territory, or possession of the United  
2098 States.



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2099            2.~~(e)~~ Was licensed through written examination in at least  
2100 one state, trust, territory, or possession of the United States,  
2101 the examination requirements of which have been approved by the  
2102 board as substantially equivalent to or more stringent than  
2103 those of this state, and has received a score on such  
2104 examination which is equal to or greater than the score required  
2105 by this state for licensure by examination.

2106            3.~~(d)~~ Has taken and successfully passed the laws and rules  
2107 portion of the examination required for licensure as a  
2108 professional geologist in this state.

2109            (b) Has held a valid license to practice geology in another  
2110 state, trust, territory, or possession of the United States for  
2111 at least 10 years before the date of application and has  
2112 successfully completed a state, regional, national, or other  
2113 examination that is equivalent to or more stringent than the  
2114 examination required by the department. If such applicant has  
2115 met the requirements for a license by endorsement except  
2116 successful completion of an examination that is equivalent to or  
2117 more stringent than the examination required by the board, such  
2118 applicant may take the examination required by the board. Such  
2119 application must be submitted to the board while the applicant  
2120 holds a valid license in another state or territory or within 2  
2121 years after the expiration of such license.

2122            Section 87. Section 492.111, Florida Statutes, is amended  
2123 to read:

2124            492.111 Practice of professional geology by a firm,  
2125 corporation, or partnership; ~~certificate of authorization.~~—The  
2126 practice of, or offer to practice, professional geology by  
2127 individual professional geologists licensed under the provisions



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2128 of this chapter through a firm, corporation, or partnership  
2129 offering geological services to the public through individually  
2130 licensed professional geologists as agents, employees, officers,  
2131 or partners thereof is permitted subject to the provisions of  
2132 this chapter, if provided that:

2133 (1) At all times that it offers geological services to the  
2134 public, the firm, corporation, or partnership is qualified by  
2135 ~~has on file with the department the name and license number of~~  
2136 one or more individuals who hold a current, active license as a  
2137 professional geologist in the state and are serving as a  
2138 geologist of record for the firm, corporation, or partnership. A  
2139 geologist of record may be any principal officer or employee of  
2140 such firm or corporation, or any partner or employee of such  
2141 partnership, who holds a current, active license as a  
2142 professional geologist in this state, or any other Florida-  
2143 licensed professional geologist with whom the firm, corporation,  
2144 or partnership has entered into a long-term, ongoing  
2145 relationship, as defined by rule of the board, to serve as one  
2146 of its geologists of record. ~~It shall be the responsibility of~~  
2147 ~~the firm, corporation, or partnership and~~ The geologist of  
2148 record shall ~~to~~ notify the department of any changes in the  
2149 relationship or identity of that geologist of record within 30  
2150 days after such change.

2151 ~~(2) The firm, corporation, or partnership has been issued a~~  
2152 ~~certificate of authorization by the department as provided in~~  
2153 ~~this chapter. For purposes of this section, a certificate of~~  
2154 ~~authorization shall be required of any firm, corporation,~~  
2155 ~~partnership, association, or person practicing under a~~  
2156 ~~fictitious name and offering geological services to the public;~~



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2157 ~~except that, when an individual is practicing professional~~  
2158 ~~geology in her or his own name, she or he shall not be required~~  
2159 ~~to obtain a certificate of authorization under this section.~~  
2160 ~~Such certificate of authorization shall be renewed every 2~~  
2161 ~~years.~~

2162       (2)~~(3)~~ All final geological papers or documents involving  
2163 the practice of the profession of geology which have been  
2164 prepared or approved for the use of such firm, corporation, or  
2165 partnership, for delivery to any person for public record with  
2166 the state, shall be dated and bear the signature and seal of the  
2167 professional geologist or professional geologists who prepared  
2168 or approved them.

2169       (3)~~(4)~~ Except as provided in s. 558.0035, the fact that a  
2170 licensed professional geologist practices through a corporation  
2171 or partnership does not relieve the registrant from personal  
2172 liability for negligence, misconduct, or wrongful acts committed  
2173 by her or him. The partnership and all partners are jointly and  
2174 severally liable for the negligence, misconduct, or wrongful  
2175 acts committed by their agents, employees, or partners while  
2176 acting in a professional capacity. Any officer, agent, or  
2177 employee of a corporation is personally liable and accountable  
2178 only for negligent acts, wrongful acts, or misconduct committed  
2179 by her or him or committed by any person under her or his direct  
2180 supervision and control, while rendering professional services  
2181 on behalf of the corporation. The personal liability of a  
2182 shareholder of a corporation, in her or his capacity as  
2183 shareholder, may be no greater than that of a shareholder-  
2184 employee of a corporation incorporated under chapter 607. The  
2185 corporation is liable up to the full value of its property for





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2186 any negligent acts, wrongful acts, or misconduct committed by  
2187 any of its officers, agents, or employees while they are engaged  
2188 on behalf of the corporation in the rendering of professional  
2189 services.

2190 ~~(5) The firm, corporation, or partnership desiring a~~  
2191 ~~certificate of authorization shall file with the department an~~  
2192 ~~application therefor, upon a form to be prescribed by the~~  
2193 ~~department, accompanied by the required application fee.~~

2194 ~~(6) The department may refuse to issue a certificate of~~  
2195 ~~authorization if any facts exist which would entitle the~~  
2196 ~~department to suspend or revoke an existing certificate of~~  
2197 ~~authorization or if the department, after giving persons~~  
2198 ~~involved a full and fair hearing, determines that any of the~~  
2199 ~~officers or directors of said firm or corporation, or partners~~  
2200 ~~of said partnership, have violated the provisions of s. 492.113.~~

2201 Section 88. Subsection (4) of section 492.113, Florida  
2202 Statutes, is amended to read:

2203 492.113 Disciplinary proceedings.—

2204 (4) The department shall reissue the license of a  
2205 disciplined professional geologist ~~or business~~ upon  
2206 certification by the board that the disciplined person has  
2207 complied with ~~all of~~ the terms and conditions set forth in the  
2208 final order.

2209 Section 89. Section 492.115, Florida Statutes, is amended  
2210 to read:

2211 492.115 Roster of licensed professional geologists.—A  
2212 roster showing the names and places of business or residence of  
2213 all licensed professional geologists and all properly qualified  
2214 firms, corporations, or partnerships practicing holding



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2215 ~~certificates of authorization to practice~~ professional geology  
2216 in the state shall be prepared annually by the department. A  
2217 copy of this roster must be made available to ~~shall be~~  
2218 ~~obtainable by~~ each licensed professional geologist and each  
2219 firm, corporation, or partnership qualified by a professional  
2220 geologist holding a certificate of authorization, and copies  
2221 thereof shall be placed on file with the department.

2222 Section 90. Section 509.102, Florida Statutes, is created  
2223 to read:

2224 509.102 Mobile food dispensing vehicles; preemption.-

2225 (1) As used in this section, the term "mobile food  
2226 dispensing vehicle" means any vehicle that is a public food  
2227 service establishment and that is self-propelled or otherwise  
2228 movable from place to place and includes self-contained  
2229 utilities, including, but not limited to, gas, water,  
2230 electricity, or liquid waste disposal.

2231 (2) Regulation of mobile food dispensing vehicles involving  
2232 licenses, registrations, permits, and fees is preempted to the  
2233 state. A municipality, county, or other local governmental  
2234 entity may not require a separate license, registration, or  
2235 permit other than the license required under s. 509.241, or  
2236 require the payment of any license, registration, or permit fee  
2237 other than the fee required under s. 509.251, as a condition for  
2238 the operation of a mobile food dispensing vehicle within the  
2239 entity's jurisdiction. A municipality, county, or other local  
2240 governmental entity may not prohibit mobile food dispensing  
2241 vehicles from operating within the entirety of the entity's  
2242 jurisdiction.

2243 (3) This section may not be construed to affect a



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2244 municipality, county, or other local governmental entity's  
2245 authority to regulate the operation of mobile food dispensing  
2246 vehicles other than the regulations described in subsection (2).

2247 Section 91. Paragraph (i) of subsection (2) of section  
2248 548.003, Florida Statutes, is amended to read:

2249 548.003 Florida State Boxing Commission.—

2250 (2) The Florida State Boxing Commission, as created by  
2251 subsection (1), shall administer the provisions of this chapter.  
2252 The commission has authority to adopt rules pursuant to ss.  
2253 120.536(1) and 120.54 to implement the provisions of this  
2254 chapter and to implement each of the duties and responsibilities  
2255 conferred upon the commission, including, but not limited to:

2256 ~~(i) Designation and duties of a knockdown timekeeper.~~

2257 Section 92. Subsection (1) of section 548.017, Florida  
2258 Statutes, is amended to read:

2259 548.017 Participants, managers, and other persons required  
2260 to have licenses.—

2261 (1) A participant, manager, trainer, second, ~~timekeeper,~~  
2262 referee, judge, ~~announcer,~~ physician, matchmaker, or promoter  
2263 must be licensed before directly or indirectly acting in such  
2264 capacity in connection with any match involving a participant. A  
2265 physician approved by the commission must be licensed pursuant  
2266 to chapter 458 or chapter 459, must maintain an unencumbered  
2267 license in good standing, and must demonstrate satisfactory  
2268 medical training or experience in boxing, or a combination of  
2269 both, to the executive director before working as the ringside  
2270 physician.

2271 Section 93. Paragraph (d) of subsection (1) of section  
2272 553.5141, Florida Statutes, is amended to read:



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2273           553.5141 Certifications of conformity and remediation  
2274 plans.—  
2275           (1) For purposes of this section:  
2276           (d) "Qualified expert" means:  
2277           1. An engineer licensed pursuant to chapter 471.  
2278           2. A certified general contractor licensed pursuant to  
2279 chapter 489.  
2280           3. A certified building contractor licensed pursuant to  
2281 chapter 489.  
2282           4. A building code administrator licensed pursuant to  
2283 chapter 468.  
2284           5. A building inspector licensed pursuant to chapter 468.  
2285           6. A plans examiner licensed pursuant to chapter 468.  
2286           7. An interior designer registered ~~licensed~~ pursuant to  
2287 chapter 481.  
2288           8. An architect licensed pursuant to chapter 481.  
2289           9. A landscape architect licensed pursuant to chapter 481.  
2290           10. Any person who has prepared a remediation plan related  
2291 to a claim under Title III of the Americans with Disabilities  
2292 Act, 42 U.S.C. s. 12182, that has been accepted by a federal  
2293 court in a settlement agreement or court proceeding, or who has  
2294 been qualified as an expert in Title III of the Americans with  
2295 Disabilities Act, 42 U.S.C. s. 12182, by a federal court.  
2296           Section 94. Effective January 1, 2021, subsection (1) of  
2297 section 553.74, Florida Statutes, is amended to read:  
2298           553.74 Florida Building Commission.—  
2299           (1) The Florida Building Commission is created and located  
2300 within the Department of Business and Professional Regulation  
2301 for administrative purposes. Members are appointed by the



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2302 Governor subject to confirmation by the Senate. The commission  
2303 is composed of 19 ~~27~~ members, consisting of the following  
2304 members:

2305 (a) One architect licensed pursuant to chapter 481 with at  
2306 least 5 years of experience in the design and construction of  
2307 buildings designated for Group E or Group I occupancies by the  
2308 Florida Building Code ~~registered to practice in this state and~~  
2309 ~~actively engaged in the profession~~. The American Institute of  
2310 Architects, Florida Section, is encouraged to recommend a list  
2311 of candidates for consideration.

2312 (b) One structural engineer registered to practice in this  
2313 state and actively engaged in the profession. The Florida  
2314 Engineering Society is encouraged to recommend a list of  
2315 candidates for consideration.

2316 (c) One air-conditioning contractor, ~~or~~ mechanical  
2317 contractor, or mechanical engineer certified to do business in  
2318 this state and actively engaged in the profession. The Florida  
2319 Air Conditioning Contractors Association, the Florida  
2320 Refrigeration and Air Conditioning Contractors Association, ~~and~~  
2321 the Mechanical Contractors Association of Florida, and the  
2322 Florida Engineering Society are encouraged to recommend a list  
2323 of candidates for consideration.

2324 (d) One electrical contractor or electrical engineer  
2325 certified to do business in this state and actively engaged in  
2326 the profession. The Florida Association of Electrical  
2327 Contractors, ~~and~~ the National Electrical Contractors  
2328 Association, Florida Chapter, and the Florida Engineering  
2329 Society are encouraged to recommend a list of candidates for  
2330 consideration.



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2331 ~~(e) One member from fire protection engineering or~~  
2332 ~~technology who is actively engaged in the profession. The~~  
2333 ~~Florida Chapter of the Society of Fire Protection Engineers and~~  
2334 ~~the Florida Fire Marshals and Inspectors Association are~~  
2335 ~~encouraged to recommend a list of candidates for consideration.~~

2336 (e) ~~(f)~~ One certified general contractor or one certified  
2337 building contractor certified to do business in this state and  
2338 actively engaged in the profession. The Associated Builders and  
2339 Contractors of Florida, the Florida Associated General  
2340 Contractors Council, the Florida Home Builders Association, and  
2341 the Union Contractors Association are encouraged to recommend a  
2342 list of candidates for consideration.

2343 (f) ~~(g)~~ One plumbing contractor licensed to do business in  
2344 this state and actively engaged in the profession. The Florida  
2345 Association of Plumbing, Heating, and Cooling Contractors is  
2346 encouraged to recommend a list of candidates for consideration.

2347 (g) ~~(h)~~ One roofing or sheet metal contractor certified to  
2348 do business in this state and actively engaged in the  
2349 profession. The Florida Roofing, Sheet Metal, and Air  
2350 Conditioning Contractors Association and the Sheet Metal and Air  
2351 Conditioning Contractors' National Association are encouraged to  
2352 recommend a list of candidates for consideration.

2353 (h) ~~(i)~~ One certified residential contractor licensed to do  
2354 business in this state and actively engaged in the profession.  
2355 The Florida Home Builders Association is encouraged to recommend  
2356 a list of candidates for consideration.

2357 (i) ~~(j)~~ Three members who are municipal, county, or district  
2358 codes enforcement officials, one of whom is also a fire  
2359 official. The Building Officials Association of Florida and the



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2360 Florida Fire Marshals and Inspectors Association are encouraged  
2361 to recommend a list of candidates for consideration.

2362 ~~(k) One member who represents the Department of Financial~~  
2363 ~~Services.~~

2364 ~~(l) One member who is a county codes enforcement official.~~  
2365 ~~The Building Officials Association of Florida is encouraged to~~  
2366 ~~recommend a list of candidates for consideration.~~

2367 (j) ~~(m)~~ One member of a Florida-based organization of  
2368 persons with disabilities or a nationally chartered organization  
2369 of persons with disabilities with chapters in this state which  
2370 complies with or is certified to be compliant with the  
2371 requirements of the Americans with Disability Act of 1990, as  
2372 amended.

2373 (k) ~~(n)~~ One member of the manufactured buildings industry  
2374 who is licensed to do business in this state and is actively  
2375 engaged in the industry. The Florida Manufactured Housing  
2376 Association is encouraged to recommend a list of candidates for  
2377 consideration.

2378 ~~(o) One mechanical or electrical engineer registered to~~  
2379 ~~practice in this state and actively engaged in the profession.~~  
2380 ~~The Florida Engineering Society is encouraged to recommend a~~  
2381 ~~list of candidates for consideration.~~

2382 ~~(p) One member who is a representative of a municipality or~~  
2383 ~~a charter county. The Florida League of Cities and the Florida~~  
2384 ~~Association of Counties are encouraged to recommend a list of~~  
2385 ~~candidates for consideration.~~

2386 (l) ~~(q)~~ One member of the building products manufacturing  
2387 industry who is authorized to do business in this state and is  
2388 actively engaged in the industry. The Florida Building Material



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2389 Association, the Florida Concrete and Products Association, and  
2390 the Fenestration Manufacturers Association are encouraged to  
2391 recommend a list of candidates for consideration.

2392 (m)~~(r)~~ One member who is a representative of the building  
2393 owners and managers industry who is actively engaged in  
2394 commercial building ownership or management. The Building Owners  
2395 and Managers Association is encouraged to recommend a list of  
2396 candidates for consideration.

2397 (n)~~(s)~~ One member who is a representative of the insurance  
2398 industry. The Florida Insurance Council is encouraged to  
2399 recommend a list of candidates for consideration.

2400 ~~(t) One member who is a representative of public education.~~

2401 (o)~~(u)~~ One member who is a swimming pool contractor  
2402 licensed to do business in this state and actively engaged in  
2403 the profession. The Florida Swimming Pool Association and the  
2404 United Pool and Spa Association are encouraged to recommend a  
2405 list of candidates for consideration.

2406 (p)~~(v)~~ One member who is a representative of the green  
2407 building industry and who is a third-party commission agent, a  
2408 Florida board member of the United States Green Building Council  
2409 or Green Building Initiative, a professional who is accredited  
2410 under the International Green Construction Code (IGCC), or a  
2411 professional who is accredited under Leadership in Energy and  
2412 Environmental Design (LEED).

2413 (q)~~(w)~~ One member who is a representative of a natural gas  
2414 distribution system and who is actively engaged in the  
2415 distribution of natural gas in this state. The Florida Natural  
2416 Gas Association is encouraged to recommend a list of candidates  
2417 for consideration.





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2418 ~~(x) One member who is a representative of the Department of~~  
2419 ~~Agriculture and Consumer Services' Office of Energy. The~~  
2420 ~~Commissioner of Agriculture is encouraged to recommend a list of~~  
2421 ~~candidates for consideration.~~

2422 ~~(y) One member who shall be the chair.~~

2423 Section 95. Subsections (5) and (6) are added to section  
2424 823.15, Florida Statutes, to read:

2425 823.15 Dogs and cats released from animal shelters or  
2426 animal control agencies; sterilization requirement.—

2427 (5) Employees, agents, or contractors of a public or  
2428 private animal shelter, a humane organization, or an animal  
2429 control agency operated by a humane organization or by a county,  
2430 municipality, or other incorporated political subdivision may  
2431 implant dogs and cats with radio frequency identification  
2432 microchips as part of their work with such public or private  
2433 animal shelter, humane organization, or animal control agency.

2434 (6) Notwithstanding s. 474.2165, employees, agents, or  
2435 contractors of a public or private animal shelter, a humane  
2436 organization, or an animal control agency operated by a humane  
2437 organization or by a county, municipality, or other incorporated  
2438 political subdivision may contact the owner of record listed on  
2439 a radio frequency identification microchip to verify pet  
2440 ownership.

2441  
2442 ===== T I T L E A M E N D M E N T =====

2443 And the title is amended as follows:

2444 Delete lines 37 - 205

2445 and insert:

2446 creating s. 455.2278, F.S.; defining terms;



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2447 prohibiting the department or a board from suspending  
2448 or revoking a person's license solely on the basis of  
2449 a delinquency or default in the payment of his or her  
2450 student loan; prohibiting the department or a board  
2451 from suspending or revoking a person's license solely  
2452 on the basis of a default in satisfying the  
2453 requirements of his or her work-conditional  
2454 scholarship; amending s. 456.072, F.S.; specifying  
2455 that the failure to repay certain student loans is not  
2456 considered a failure to perform a statutory or legal  
2457 obligation for which certain disciplinary action can  
2458 be taken; conforming provisions to changes made by the  
2459 act; repealing s. 456.0721, F.S., relating to health  
2460 care practitioners who are in default on student loan  
2461 or scholarship obligations; amending s. 456.074, F.S.;  
2462 deleting a provision relating to the suspension of a  
2463 license issued by the Department of Health for  
2464 defaulting on certain student loans; amending s.  
2465 468.385, F.S.; revising requirements relating to  
2466 businesses auctioning or offering to auction property  
2467 in this state; amending s. 468.401, F.S.; revising  
2468 definitions; repealing ss. 468.402, 468.403, 468.404,  
2469 and 468.405, F.S., relating to duties and authority of  
2470 the Department of Business and Professional Regulation  
2471 with regard to licensure of talent agencies, licensure  
2472 requirements, license fees and renewals, and  
2473 qualification for a talent agency license,  
2474 respectively; amending s. 468.406, F.S.; requiring an  
2475 owner or operator of a talent agency to post an



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2476 itemized schedule of fees, charges, and commissions in  
2477 a specified place; repealing s. 468.407, F.S.,  
2478 relating to the form and posting requirements for a  
2479 license; amending s. 468.408, F.S.; conforming  
2480 provisions to changes made by the act; prohibiting  
2481 certain bonds from being issued or renewed by a  
2482 bonding agency to an owner or operator of a talent  
2483 agency unless the bonding agency verifies that each  
2484 owner or operator has not been convicted of specified  
2485 crimes; amending s. 468.409, F.S.; deleting a  
2486 requirement for record inspection; amending s.  
2487 468.410, F.S.; deleting a requirement to include  
2488 specified information in a contract between a talent  
2489 agency and applicant; amending s. 468.412, F.S.;  
2490 deleting recordkeeping and posting requirements;  
2491 amending s. 468.413, F.S.; revising criminal  
2492 penalties; conforming provisions to changes made by  
2493 the act; repealing s. 468.414, F.S., relating to the  
2494 deposit of certain funds in the Professional  
2495 Regulation Trust Fund; amending s. 468.415, F.S.;  
2496 prohibiting any agent, owner, or operator who commits  
2497 sexual misconduct in the operation of a talent agency  
2498 from acting as an agent, owner, or operator of a  
2499 Florida talent agency; amending s. 468.505, F.S.;  
2500 providing that certain unlicensed persons are not  
2501 prohibited or restricted from his or her practice,  
2502 services, or activities in dietetics and nutrition  
2503 under certain circumstances; amending 468.524, F.S.;  
2504 deleting specified exemptions from the time



2505 restriction for an employee leasing company to reapply  
2506 for licensure; amending s. 468.603, F.S.; revising  
2507 which inspectors are included in the definition of the  
2508 term "categories of building code inspectors";  
2509 amending s. 468.609, F.S.; revising certain experience  
2510 requirements for a person to take the examination for  
2511 certification; revising the time period a provisional  
2512 certificate is valid; amending s. 468.613, F.S.;  
2513 providing for waiver of specified requirements for  
2514 certification under certain circumstances; amending s.  
2515 468.8314, F.S.; requiring an applicant for a license  
2516 by endorsement to maintain a specified insurance  
2517 policy; requiring the department to certify an  
2518 applicant who holds a specified license issued by  
2519 another state or territory of the United States under  
2520 certain circumstances; amending s. 471.015, F.S.;  
2521 revising licensure requirements for engineers who hold  
2522 specified licenses in another state; amending s.  
2523 473.308, F.S.; deleting continuing education  
2524 requirements for license by endorsement for certified  
2525 public accountants; amending s. 474.202, F.S.;  
2526 revising the definition of the term "limited-service  
2527 veterinary medical practice" to include certain  
2528 procedures; amending s. 474.207, F.S.; revising  
2529 education requirements for licensure by examination;  
2530 amending s. 474.217, F.S.; requiring the department to  
2531 issue a license by endorsement to certain applicants  
2532 who successfully complete a specified examination;  
2533 amending s. 476.114, F.S.; revising training



2534 requirements for licensure as a barber; amending s.  
2535 476.144, F.S.; requiring the department to certify as  
2536 qualified for licensure by endorsement an applicant  
2537 who is licensed to practice barbering in another  
2538 state; amending s. 477.013, F.S.; revising the  
2539 definition of the term "hair braiding"; repealing s.  
2540 477.0132, F.S., relating to registration for hair  
2541 braiding, hair wrapping, and body wrapping; amending  
2542 s. 477.0135, F.S.; providing additional exemptions  
2543 from license or registration requirements for  
2544 specified occupations or practices; amending s.  
2545 477.019, F.S.; deleting a provision prohibiting the  
2546 Board of Cosmetology from asking for proof of certain  
2547 educational hours under certain circumstances;  
2548 conforming provisions to changes made by the act;  
2549 amending s. 477.0201, F.S.; providing requirements for  
2550 registration as a specialist; amending s. 477.026,  
2551 F.S.; conforming provisions to changes made by the  
2552 act; amending s. 477.0263, F.S.; providing that  
2553 certain cosmetology services may be performed in a  
2554 location other than a licensed salon under certain  
2555 circumstances; amending ss. 477.0265 and 477.029,  
2556 F.S.; conforming provisions to changes made by the  
2557 act; amending s. 481.201, F.S.; deleting legislative  
2558 findings relating to the practice of interior design;  
2559 amending s. 481.203, F.S.; revising and deleting  
2560 definitions; amending s. 481.205, F.S.; conforming  
2561 provisions to changes made by the act; amending s.  
2562 481.207, F.S.; revising certain fees for interior



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2563 designers; conforming provisions to changes made by  
2564 the act; amending s. 481.209, F.S.; providing  
2565 requirements for a certificate of registration and a  
2566 seal for interior designers; specifying certain  
2567 persons who are already licensed as an interior  
2568 designer is eligible to obtain a certificate of  
2569 registration; conforming provisions to changes made by  
2570 the act; amending s. 481.213, F.S.; revising  
2571 requirements for certification of licensure by  
2572 endorsement for a certain licensee to engage in the  
2573 practice of architecture; providing that a  
2574 registration is not required for specified persons to  
2575 practice; conforming provisions to changes made by the  
2576 act; amending s. 481.2131, F.S.; requiring certain  
2577 interior designers to include a specified seal when  
2578 submitting documents for the issuance of a building  
2579 permit; amending s. 481.215, F.S.; conforming  
2580 provisions to changes made by the act; revising the  
2581 number of hours of specified courses the board must  
2582 require for the renewal of a license or certificate of  
2583 registration; authorizing licensees to complete  
2584 certain courses online; amending s. 481.217, F.S.;  
2585 conforming provisions to changes made by the act;  
2586 amending s. 481.219, F.S.; deleting provisions  
2587 permitting the practice of or offer to practice  
2588 interior design through certain business  
2589 organizations; deleting provisions requiring  
2590 certificates of authorization for certain business  
2591 organizations offering interior design services to the



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2592 public; requiring a licensee or applicant in the  
2593 practice of architecture to qualify as a business  
2594 organization; providing requirements; amending s.  
2595 481.221, F.S.; conforming provisions to changes made  
2596 by the act; requiring registered architects and  
2597 certain business organizations to display certain  
2598 license numbers in specified advertisements; amending  
2599 s. 481.223, F.S.; providing construction; conforming  
2600 provisions to changes made by the act; amending s.  
2601 481.2251, F.S.; revising the acts that constitute  
2602 grounds for disciplinary actions relating to interior  
2603 designers; conforming provisions to changes made by  
2604 the act; amending ss. 481.229 and 481.231, F.S.;  
2605 conforming provisions to changes made by the act;  
2606 amending s. 481.303, F.S.; deleting the definition of  
2607 the term "certificate of authorization"; amending s.  
2608 481.310, F.S.; providing that an applicant who holds  
2609 certain degrees is not required to demonstrate 1 year  
2610 of practical experience for licensure; amending s.  
2611 481.311, F.S.; revising requirements for certification  
2612 of licensure by endorsement for a certain applicant to  
2613 engage in the practice of landscape architecture;  
2614 amending s. 481.313, F.S.; authorizing a landscape  
2615 architect to receive hour-for-hour credit for certain  
2616 approved continuing education courses under certain  
2617 circumstances; amending s. 481.317, F.S.; conforming  
2618 provisions to changes made by the act; amending s.  
2619 481.319, F.S.; deleting the requirement for a  
2620 certificate of authorization; authorizing landscape



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2621 architects to practice in the name of a corporation or  
2622 partnership; amending s. 481.321, F.S.; requiring a  
2623 landscape architect to display a certain certificate  
2624 number in specified advertisements; amending s.  
2625 481.329, F.S.; conforming a cross-reference; amending  
2626 s. 489.103, F.S.; revising certain contract prices for  
2627 exemption; amending s. 489.111, F.S.; revising  
2628 provisions relating to eligibility for licensure;  
2629 amending s. 489.113, F.S.; providing that applicants  
2630 who meet certain requirements are not required to pass  
2631 a specified examination; amending s. 489.115, F.S.;  
2632 requiring the Construction Industry Licensing Board to  
2633 certify any applicant who holds a specified license to  
2634 practice contracting issued by another state or  
2635 territory of the United States under certain  
2636 circumstances; requiring certain applicants to  
2637 complete certain training; amending s. 489.511, F.S.;  
2638 requiring the board to certify as qualified for  
2639 certification by endorsement any applicant who holds a  
2640 specified license to practice electrical or alarm  
2641 system contracting issued by another state or  
2642 territory of the United States under certain  
2643 circumstances; requiring certain applicants to  
2644 complete certain training; amending s. 489.517, F.S.;  
2645 providing a reduction in certain continuing education  
2646 hours required for certain contractors; amending s.  
2647 489.518, F.S.; requiring a person to have completed a  
2648 specified amount of training within a certain time  
2649 period to perform the duties of an alarm system agent;





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2650 amending s. 492.104, F.S.; conforming provisions to  
2651 changes made by the act; amending 492.108, F.S.;  
2652 requiring the department to issue a license by  
2653 endorsement to any applicant who has held a specified  
2654 license to practice geology in another state, trust,  
2655 territory, or possession of the United States for a  
2656 certain period of time; providing that an applicant  
2657 may take the examination required by the board if they  
2658 have not met the specified examination requirement;  
2659 amending s. 492.111, F.S.; deleting the requirements  
2660 for a certificate of authorization for a professional  
2661 geologist; amending ss. 492.113 and 492.115, F.S.;  
2662 conforming provisions to changes made by the act;  
2663 creating s. 509.102; defining the term "mobile food  
2664 dispensing vehicle"; preempting certain regulation of  
2665 mobile food dispensing vehicles to the state;  
2666 prohibiting certain entities from prohibiting mobile  
2667 food dispensing vehicles from operating within the  
2668 entirety of such entities' jurisdictions; providing  
2669 construction; amending s. 548.003, F.S.; deleting the  
2670 requirement that the Florida State Boxing Commission  
2671 adopt rules relating to a knockdown timekeeper;  
2672 amending s. 548.017, F.S.; deleting the licensure  
2673 requirement for a timekeeper or an announcer; amending  
2674 s. 553.5141, F.S.; conforming provisions to changes  
2675 made by the act; amending s. 553.74, F.S.; revising  
2676 the membership and qualifications of the Florida  
2677 Building Commission; amending s. 823.15, F.S.;  
2678 authorizing certain persons to implant dogs and cats



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2679 with specified microchips under certain circumstances;  
2680 authorizing certain persons to contact the owner of  
2681 record listed on radio frequency identification  
2682 microchips under certain circumstances; amending ss.  
2683 558.002,

By the Committees on Commerce and Tourism; and Innovation,  
Industry, and Technology; and Senator Albritton

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1 A bill to be entitled  
2 An act relating to the deregulation of professions and  
3 occupations; providing a short title; amending s.  
4 322.57, F.S.; defining the term "servicemember";  
5 requiring the Department of Highway Safety and Motor  
6 Vehicles to waive the requirement to pass the  
7 Commercial Driver License Skills Tests for certain  
8 servicemembers and veterans; requiring an applicant  
9 who receives such waiver to complete certain  
10 requirements within a specified time; requiring the  
11 department to adopt rules; amending s. 326.004, F.S.;  
12 deleting the requirement that a yacht broker maintain  
13 a separate license for each branch office; deleting  
14 the requirement that the Division of Florida  
15 Condominiums, Timeshares, and Mobile Homes establish a  
16 fee; amending s. 447.02, F.S.; conforming provisions  
17 to changes made by the act; repealing s. 447.04, F.S.,  
18 relating to licensure and permit requirements for  
19 business agents; repealing s. 447.041, F.S., relating  
20 to hearings for persons or labor organizations denied  
21 licensure as a business agent; repealing s. 447.045,  
22 F.S., relating to confidential information obtained  
23 during the application process; repealing s. 447.06,  
24 F.S., relating to required registration of labor  
25 organizations; amending s. 447.09, F.S.; deleting  
26 certain prohibited actions relating to the right of  
27 franchise of a member of a labor organization;  
28 repealing s. 447.12, F.S., relating to registration  
29 fees; repealing s. 447.16, F.S., relating to

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30 applicability; amending s. 447.305, F.S.; deleting a  
31 provision that requires notification of registrations  
32 and renewals to the Department of Business and  
33 Professional Regulation; amending s. 455.213, F.S.;  
34 requiring the department or a board to enter into  
35 reciprocal licensing agreements with other states  
36 under certain circumstances; providing requirements;  
37 amending s. 456.072, F.S.; specifying that the failure  
38 to repay certain student loans is not considered a  
39 failure to perform a statutory or legal obligation for  
40 which certain disciplinary action can be taken;  
41 conforming provisions to changes made by the act;  
42 repealing s. 456.0721, F.S., relating to health care  
43 practitioners who are in default on student loan or  
44 scholarship obligations; amending s. 456.074, F.S.;  
45 deleting a provision relating to the suspension of a  
46 license issued by the Department of Health for  
47 defaulting on certain student loans; amending s.  
48 468.385, F.S.; revising requirements relating to  
49 businesses auctioning or offering to auction property  
50 in this state; amending s. 468.603, F.S.; revising  
51 which inspectors are included in the definition of the  
52 term "categories of building code inspectors";  
53 amending s. 468.613, F.S.; providing for waiver of  
54 specified requirements for certification under certain  
55 circumstances; amending s. 468.8314, F.S.; requiring  
56 an applicant for a license by endorsement to maintain  
57 a specified insurance policy; requiring the department  
58 to certify an applicant who holds a specified license

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59 issued by another state or territory of the United  
 60 States under certain circumstances; amending s.  
 61 471.015, F.S.; revising licensure requirements for  
 62 engineers who hold specified licenses in another  
 63 state; amending s. 473.308, F.S.; deleting continuing  
 64 education requirements for license by endorsement for  
 65 certified public accountants; amending s. 474.202,  
 66 F.S.; revising the definition of the term "limited-  
 67 service veterinary medical practice" to include  
 68 certain procedures; amending s. 474.207, F.S.;  
 69 revising education requirements for licensure by  
 70 examination; amending s. 474.217, F.S.; requiring the  
 71 department to issue a license by endorsement to  
 72 certain applicants who successfully complete a  
 73 specified examination; amending s. 476.114, F.S.;  
 74 revising training requirements for licensure as a  
 75 barber; amending s. 476.144, F.S.; requiring the  
 76 department to certify as qualified for licensure by  
 77 endorsement an applicant who is licensed to practice  
 78 barbering in another state; amending s. 477.013, F.S.;  
 79 revising the definition of the term "hair braiding";  
 80 repealing s. 477.0132, F.S., relating to registration  
 81 for hair braiding, hair wrapping, and body wrapping;  
 82 amending s. 477.0135, F.S.; providing additional  
 83 exemptions from license or registration requirements  
 84 for specified occupations or practices; amending s.  
 85 477.019, F.S.; deleting a provision prohibiting the  
 86 Board of Cosmetology from asking for proof of certain  
 87 educational hours under certain circumstances;

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88 revising requirements for certification of licensure  
 89 by endorsement for a certain applicant to engage in  
 90 the practice of cosmetology; conforming provisions to  
 91 changes made by the act; amending s. 477.0201, F.S.;  
 92 providing requirements for registration as a  
 93 specialist; amending s. 477.026, F.S.; conforming  
 94 provisions to changes made by the act; amending s.  
 95 477.0263, F.S.; providing that certain cosmetology  
 96 services may be performed in a location other than a  
 97 licensed salon under certain circumstances; amending  
 98 ss. 477.0265 and 477.029, F.S.; conforming provisions  
 99 to changes made by the act; amending s. 481.201, F.S.;  
 100 deleting legislative findings relating to the practice  
 101 of interior design; amending s. 481.203, F.S.;  
 102 revising and deleting definitions; amending s.  
 103 481.205, F.S.; conforming provisions to changes made  
 104 by the act; amending s. 481.207, F.S.; revising  
 105 certain fees for interior designers; conforming  
 106 provisions to changes made by the act; amending s.  
 107 481.209, F.S.; providing requirements for a  
 108 certificate of registration and a seal for interior  
 109 designers; conforming provisions to changes made by  
 110 the act; amending s. 481.213, F.S.; revising  
 111 requirements for certification of licensure by  
 112 endorsement for a certain licensee to engage in the  
 113 practice of architecture; providing that a  
 114 registration is not required for specified persons to  
 115 practice; conforming provisions to changes made by the  
 116 act; amending s. 481.2131, F.S.; requiring certain

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117 interior designers to include a specified seal when  
 118 submitting documents for the issuance of a building  
 119 permit; amending s. 481.215, F.S.; conforming  
 120 provisions to changes made by the act; revising the  
 121 number of hours of specified courses the board must  
 122 require for the renewal of a license or certificate of  
 123 registration; authoring licensees to complete certain  
 124 courses online; amending s. 481.217, F.S.; conforming  
 125 provisions to changes made by the act; amending s.  
 126 481.219, F.S.; deleting provisions permitting the  
 127 practice of or offer to practice interior design  
 128 through certain business organizations; deleting  
 129 provisions requiring certificates of authorization for  
 130 certain business organizations offering interior  
 131 design services to the public; requiring a licensee or  
 132 applicant in the practice of architecture to qualify  
 133 as a business organization; providing requirements;  
 134 amending s. 481.221, F.S.; conforming provisions to  
 135 changes made by the act; requiring registered  
 136 architects and certain business organizations to  
 137 display certain license numbers in specified  
 138 advertisements; amending s. 481.223, F.S.; providing  
 139 construction; conforming provisions to changes made by  
 140 the act; amending s. 481.2251, F.S.; revising the acts  
 141 that constitute grounds for disciplinary actions  
 142 relating to interior designers; conforming provisions  
 143 to changes made by the act; amending ss. 481.229 and  
 144 481.231, F.S.; conforming provisions to changes made  
 145 by the act; amending s. 481.303, F.S.; deleting the

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146 definition of the term "certificate of authorization";  
 147 amending s. 481.310, F.S.; providing that an applicant  
 148 who holds certain degrees is not required to  
 149 demonstrate 1 year of practical experience for  
 150 licensure; amending s. 481.311, F.S.; revising  
 151 requirements for certification of licensure by  
 152 endorsement for a certain applicant to engage in the  
 153 practice of landscape architecture; amending s.  
 154 481.313, F.S.; authorizing a landscape architect to  
 155 receive hour-for-hour credit for certain approved  
 156 continuing education courses under certain  
 157 circumstances; amending s. 481.317, F.S.; conforming  
 158 provisions to changes made by the act; amending s.  
 159 481.319, F.S.; deleting the requirement for a  
 160 certificate of authorization; authorizing landscape  
 161 architects to practice in the name of a corporation or  
 162 partnership; amending s. 481.321, F.S.; requiring a  
 163 landscape architect to display a certain certificate  
 164 number in specified advertisements; amending s.  
 165 481.329, F.S.; conforming a cross-reference; amending  
 166 s. 489.103, F.S.; revising certain contract prices for  
 167 exemption; amending s. 489.111, F.S.; revising  
 168 provisions relating to eligibility for licensure;  
 169 amending s. 489.115, F.S.; requiring the Construction  
 170 Industry Licensing Board to certify any applicant who  
 171 holds a specified license to practice contracting  
 172 issued by another state or territory of the United  
 173 States under certain circumstances; requiring such  
 174 applicant to complete certain training by a specified

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175 time after receiving a license; amending s. 489.511,  
 176 F.S.; requiring the board to certify as qualified for  
 177 certification by endorsement any applicant who holds a  
 178 specified license to practice electrical or alarm  
 179 system contracting issued by another state or  
 180 territory of the United States under certain  
 181 circumstances; requiring such applicant to complete  
 182 certain training by a specified time after receiving a  
 183 license; amending s. 489.517, F.S.; providing a  
 184 reduction in certain continuing education hours  
 185 required for certain contractors; amending s. 489.518,  
 186 F.S.; requiring a person to have completed a specified  
 187 amount of training within a certain time period to  
 188 perform the duties of an alarm system agent; creating  
 189 s. 509.102; defining the term "mobile food dispensing  
 190 vehicle"; preempting certain regulation of mobile food  
 191 dispensing vehicles to the state; prohibiting certain  
 192 entities from prohibiting mobile food dispensing  
 193 vehicles from operating within the entirety of such  
 194 entities' jurisdictions; providing construction;  
 195 amending s. 548.003, F.S.; deleting the requirement  
 196 that the Florida State Boxing Commission adopt rules  
 197 relating to a knockdown timekeeper; amending s.  
 198 548.017, F.S.; deleting the licensure requirement for  
 199 a timekeeper or an announcer; amending s. 553.5141,  
 200 F.S.; conforming provisions to changes made by the  
 201 act; amending s. 553.74, F.S.; revising the membership  
 202 and qualifications of the Florida Building Commission;  
 203 amending s. 823.15, F.S.; authorizing certain persons

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204 to implant dogs and cats with specified microchips  
 205 under certain circumstances; amending ss. 558.002,  
 206 559.25, and 287.055, F.S.; conforming provisions to  
 207 changes made by the act; providing effective dates.  
 208

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

210  
 211 Section 1. This act may be cited as the "Occupational  
 212 Freedom and Opportunity Act."

213 Section 2. Present subsection (4) of section 322.57,  
 214 Florida Statutes, is redesignated as subsection (5), and a new  
 215 subsection (4) is added to that section, to read

216 322.57 Tests of knowledge concerning specified vehicles;  
 217 endorsement; nonresidents; violations.—

218 (4) (a) As used in this subsection, the term "servicemember"  
 219 means a member of any branch of the United States military or  
 220 military reserves, the United States Coast Guard or its  
 221 reserves, the Florida National Guard, or the Florida Air  
 222 National Guard.

223 (b) The department shall waive the requirement to pass the  
 224 Commercial Driver License Skills Tests for servicemembers and  
 225 veterans if:

226 1. The applicant has been honorably discharged from  
 227 military service within 1 year of the application, if the  
 228 applicant is a veteran;

229 2. The applicant is trained as an MOS 88M Army Motor  
 230 Transport Operator or similar military job specialty;

231 3. The applicant has received training to operate large  
 232 trucks in compliance with the Federal Motor Carrier Safety

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233 Administration; and

234 4. The applicant has at least 2 years of experience in the  
 235 military driving vehicles that would require a commercial driver  
 236 license to operate.

237 (c) An applicant must complete every other requirement for  
 238 a commercial driver license within 1 year of receiving a waiver  
 239 under paragraph (b) or the waiver is invalid.

240 (d) The department shall adopt rules to administer this  
 241 subsection.

242 Section 3. Subsection (13) of section 326.004, Florida  
 243 Statutes, is amended to read:

244 326.004 Licensing.—

245 (13) Each broker must maintain a principal place of  
 246 business in this state and may establish branch offices in the  
 247 state. ~~A separate license must be maintained for each branch~~  
 248 ~~office. The division shall establish by rule a fee not to exceed~~  
 249 ~~\$100 for each branch office license.~~

250 Section 4. Subsection (3) of section 447.02, Florida  
 251 Statutes, is amended to read:

252 447.02 Definitions.—The following terms, when used in this  
 253 chapter, shall have the meanings ascribed to them in this  
 254 section:

255 ~~(3) The term "department" means the Department of Business~~  
 256 ~~and Professional Regulation.~~

257 Section 5. Section 447.04, Florida Statutes, is repealed.

258 Section 6. Section 447.041, Florida Statutes, is repealed.

259 Section 7. Section 447.045, Florida Statutes, is repealed.

260 Section 8. Section 447.06, Florida Statutes, is repealed.

261 Section 9. Subsections (6) and (8) of section 447.09,

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262 Florida Statutes, are amended to read:

263 447.09 Right of franchise preserved; penalties.—It shall be  
 264 unlawful for any person:

265 ~~(6) To act as a business agent without having obtained and~~  
 266 ~~possessing a valid and subsisting license or permit.~~

267 ~~(8) To make any false statement in an application for a~~  
 268 ~~license.~~

269 Section 10. Section 447.12, Florida Statutes, is repealed.

270 Section 11. Section 447.16, Florida Statutes, is repealed.

271 Section 12. Subsection (4) of section 447.305, Florida  
 272 Statutes, is amended to read:

273 447.305 Registration of employee organization.—

274 ~~(4) Notification of registrations and renewals of~~  
 275 ~~registration shall be furnished at regular intervals by the~~  
 276 ~~commission to the Department of Business and Professional~~  
 277 ~~Regulation.~~

278 Section 13. Subsection (14) is added to section 455.213,  
 279 Florida Statutes, to read:

280 455.213 General licensing provisions.—

281 (14) The department or a board must enter into a reciprocal  
 282 licensing agreement with other states if the practice act within  
 283 the purview of this chapter permits such agreement. If a  
 284 reciprocal licensing agreement exists or if the department or  
 285 board has determined another state's licensing requirements or  
 286 examinations to be substantially equivalent or more stringent to  
 287 those under the practice act, the department or board must post  
 288 on its website which jurisdictions have such reciprocal  
 289 licensing agreements or substantially similar licenses.

290 Section 14. Paragraph (k) of subsection (1) of section

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291 456.072, Florida Statutes, is amended to read:

292 456.072 Grounds for discipline; penalties; enforcement.—

293 (1) The following acts shall constitute grounds for which  
294 the disciplinary actions specified in subsection (2) may be  
295 taken:

296 (k) Failing to perform any statutory or legal obligation  
297 placed upon a licensee. For purposes of this section, failing to  
298 repay a student loan issued or guaranteed by the state or the  
299 Federal Government in accordance with the terms of the loan is  
300 not or failing to comply with service scholarship obligations  
301 shall be considered a failure to perform a statutory or legal  
302 obligation, and the minimum disciplinary action imposed shall be  
303 a suspension of the license until new payment terms are agreed  
304 upon or the scholarship obligation is resumed, followed by  
305 probation for the duration of the student loan or remaining  
306 scholarship obligation period, and a fine equal to 10 percent of  
307 the defaulted loan amount. Fines collected shall be deposited  
308 into the Medical Quality Assurance Trust Fund.

309 Section 15. Section 456.0721, Florida Statutes, is  
310 repealed.

311 Section 16. Subsection (4) of section 456.074, Florida  
312 Statutes, is amended to read:

313 456.074 Certain health care practitioners; immediate  
314 suspension of license.—

315 ~~(4) Upon receipt of information that a Florida-licensed~~  
316 ~~health care practitioner has defaulted on a student loan issued~~  
317 ~~or guaranteed by the state or the Federal Government, the~~  
318 ~~department shall notify the licensee by certified mail that he~~  
319 ~~or she shall be subject to immediate suspension of license~~

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320 ~~unless, within 45 days after the date of mailing, the licensee~~  
321 ~~provides proof that new payment terms have been agreed upon by~~  
322 ~~all parties to the loan. The department shall issue an emergency~~  
323 ~~order suspending the license of any licensee who, after 45 days~~  
324 ~~following the date of mailing from the department, has failed to~~  
325 ~~provide such proof. Production of such proof shall not prohibit~~  
326 ~~the department from proceeding with disciplinary action against~~  
327 ~~the licensee pursuant to s. 456.073.~~

328 Section 17. Paragraph (b) of subsection (7) of section  
329 468.385, Florida Statutes, is amended to read:

330 468.385 Licenses required; qualifications; examination.—

331 (7)

332 (b) A ~~No~~ business may not shall auction or offer to auction  
333 any property in this state unless it is owned by an auctioneer  
334 who is licensed as an auction business by the department board  
335 or is exempt from licensure under this act. Each application for  
336 licensure must shall include the names of the owner and the  
337 business, the business mailing address and location, and any  
338 other information which the board may require. The owner of an  
339 auction business shall report to the board within 30 days of any  
340 change in this required information.

341 Section 18. Paragraph (f) of subsection (5) of section  
342 468.603, Florida Statutes, is amended to read:

343 468.603 Definitions.—As used in this part:

344 (5) "Categories of building code inspectors" include the  
345 following:

346 (f) "Residential One and two family dwelling inspector"  
347 means a person who is qualified to inspect and determine that  
348 one-family, two-family, or three-family residences not exceeding

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349 ~~two habitable stories above no more than one uninhabitable story~~  
 350 ~~and accessory use structures in connection therewith one and two~~  
 351 ~~family dwellings and accessory structures~~ are constructed in  
 352 accordance with the provisions of the governing building,  
 353 plumbing, mechanical, accessibility, and electrical codes.

354 Section 19. Section 468.613, Florida Statutes, is amended  
 355 to read:

356 468.613 Certification by endorsement.—The board shall  
 357 examine other certification or training programs, as applicable,  
 358 upon submission to the board for its consideration of an  
 359 application for certification by endorsement. The board shall  
 360 waive its examination, qualification, education, or training  
 361 requirements, to the extent that such examination,  
 362 qualification, education, or training requirements of the  
 363 applicant are determined by the board to be comparable with  
 364 those established by the board. The board shall waive its  
 365 examination, qualification, education, or training requirements  
 366 if an applicant for certification by endorsement is at least 18  
 367 years of age; is of good moral character; has held a valid  
 368 building administrator, inspector, plans examiner, or the  
 369 equivalent, certification issued by another state or territory  
 370 of the United States for at least 10 years before the date of  
 371 application; and has successfully passed an applicable  
 372 examination administered by the International Code Council. Such  
 373 application must be made either when the license in another  
 374 state or territory is active or within 2 years after such  
 375 license was last active.

376 Section 20. Subsection (3) of section 468.8314, Florida  
 377 Statutes, is amended to read:

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378 468.8314 Licensure.—

379 (3) The department shall certify as qualified for a license  
 380 by endorsement an applicant who is of good moral character as  
 381 determined in s. 468.8313, who maintains an insurance policy as  
 382 required by s. 468.8322, and who:

383 (a) Holds a valid license to practice home inspection  
 384 services in another state or territory of the United States,  
 385 whose educational requirements are substantially equivalent to  
 386 those required by this part; and has passed a national,  
 387 regional, state, or territorial licensing examination that is  
 388 substantially equivalent to the examination required by this  
 389 part; or

390 (b) Has held a valid license to practice home inspection  
 391 services issued by another state or territory of the United  
 392 States for at least 10 years before the date of application.  
 393 Such application must be made either when the license in another  
 394 state or territory is active or within 2 years after such  
 395 license was last active.

396 Section 21. Subsection (5) of section 471.015, Florida  
 397 Statutes, is amended to read:

398 471.015 Licensure.—

399 (5) (a) The board shall deem that an applicant who seeks  
 400 licensure by endorsement has passed an examination substantially  
 401 equivalent to the fundamentals examination when such applicant  
 402 has held a valid professional engineer's license in another  
 403 state for ~~10~~ 15 years ~~and has had 20 years of continuous~~  
 404 ~~professional level engineering experience.~~

405 (b) The board shall deem that an applicant who seeks  
 406 licensure by endorsement has passed an examination substantially

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407 equivalent to the fundamentals examination and the principles  
 408 and practices examination when such applicant has held a valid  
 409 professional engineer's license in another state for 15 25 years  
 410 ~~and has had 30 years of continuous professional-level~~  
 411 ~~engineering experience.~~

412 Section 22. Subsection (7) of section 473.308, Florida  
 413 Statutes, is amended to read:

414 473.308 Licensure.—

415 (7) The board shall certify as qualified for a license by  
 416 endorsement an applicant who:

417 (a)~~1-~~ Is not licensed and has not been licensed in another  
 418 state or territory and who has met the requirements of this  
 419 section for education, work experience, and good moral character  
 420 and has passed a national, regional, state, or territorial  
 421 licensing examination that is substantially equivalent to the  
 422 examination required by s. 473.306; or and

423 ~~2. Has completed such continuing education courses as the~~  
 424 ~~board deems appropriate, within the limits for each applicable~~  
 425 ~~2-year period as set forth in s. 473.312, but at least such~~  
 426 ~~courses as are equivalent to the continuing education~~  
 427 ~~requirements for a Florida certified public accountant licensed~~  
 428 ~~in this state during the 2 years immediately preceding her or~~  
 429 ~~his application for licensure by endorsement; or~~

430 (b)~~1.a-~~ Holds a valid license to practice public accounting  
 431 issued by another state or territory of the United States, if  
 432 the criteria for issuance of such license were substantially  
 433 equivalent to the licensure criteria that existed in this state  
 434 at the time the license was issued;

435 ~~2.b-~~ Holds a valid license to practice public accounting

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436 issued by another state or territory of the United States but  
 437 the criteria for issuance of such license did not meet the  
 438 requirements of subparagraph 1. ~~sub-subparagraph a-~~; has met the  
 439 requirements of this section for education, work experience, and  
 440 good moral character; and has passed a national, regional,  
 441 state, or territorial licensing examination that is  
 442 substantially equivalent to the examination required by s.  
 443 473.306; or

444 ~~3.e-~~ Holds a valid license to practice public accounting  
 445 issued by another state or territory of the United States for at  
 446 least 10 years before the date of application; has passed a  
 447 national, regional, state, or territorial licensing examination  
 448 that is substantially equivalent to the examination required by  
 449 s. 473.306; and has met the requirements of this section for  
 450 good moral character; ~~and~~

451 ~~2. Has completed continuing education courses that are~~  
 452 ~~equivalent to the continuing education requirements for a~~  
 453 ~~Florida certified public accountant licensed in this state~~  
 454 ~~during the 2 years immediately preceding her or his application~~  
 455 ~~for licensure by endorsement.~~

456 Section 23. Subsection (6) of section 474.202, Florida  
 457 Statutes, is amended to read:

458 474.202 Definitions.—As used in this chapter:

459 (6) "Limited-service veterinary medical practice" means  
 460 offering or providing veterinary services at any location that  
 461 has a primary purpose other than that of providing veterinary  
 462 medical service at a permanent or mobile establishment permitted  
 463 by the board; provides veterinary medical services for privately  
 464 owned animals that do not reside at that location; operates for

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465 a limited time; and provides limited types of veterinary medical  
 466 services, including vaccinations or immunizations against  
 467 disease, preventative procedures for parasitic control, and  
 468 microchipping.

469 Section 24. Paragraph (b) of subsection (2) of section  
 470 474.207, Florida Statutes, is amended to read:

471 474.207 Licensure by examination.—

472 (2) The department shall license each applicant who the  
 473 board certifies has:

474 (b)1. Graduated from a college of veterinary medicine  
 475 accredited by the American Veterinary Medical Association  
 476 Council on Education; or

477 2. Graduated from a college of veterinary medicine listed  
 478 in the American Veterinary Medical Association Roster of  
 479 Veterinary Colleges of the World and obtained a certificate from  
 480 the Education Commission for Foreign Veterinary Graduates or the  
 481 Program for the Assessment of Veterinary Education Equivalence.  
 482

483 The department shall not issue a license to any applicant who is  
 484 under investigation in any state or territory of the United  
 485 States or in the District of Columbia for an act which would  
 486 constitute a violation of this chapter until the investigation  
 487 is complete and disciplinary proceedings have been terminated,  
 488 at which time the provisions of s. 474.214 shall apply.

489 Section 25. Subsection (1) of section 474.217, Florida  
 490 Statutes, is amended to read:

491 474.217 Licensure by endorsement.—

492 (1) The department shall issue a license by endorsement to  
 493 any applicant who, upon applying to the department and remitting

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494 a fee set by the board, demonstrates to the board that she or  
 495 he:

496 (a) Has demonstrated, in a manner designated by rule of the  
 497 board, knowledge of the laws and rules governing the practice of  
 498 veterinary medicine in this state; and

499 (b)1. ~~Either~~ Holds, and has held for the 3 years  
 500 immediately preceding the application for licensure, a valid,  
 501 active license to practice veterinary medicine in another state  
 502 of the United States, the District of Columbia, or a territory  
 503 of the United States, provided that the applicant has  
 504 successfully completed a state, regional, national, or other  
 505 examination that is equivalent to or more stringent than the  
 506 examination required by the board requirements for licensure in  
 507 the issuing state, district, or territory are equivalent to or  
 508 more stringent than the requirements of this chapter; or

509 2. Meets the qualifications of s. 474.207(2)(b) and has  
 510 successfully completed a state, regional, national, or other  
 511 examination which is equivalent to or more stringent than the  
 512 examination given by the department and has passed the board's  
 513 clinical competency examination or another clinical competency  
 514 examination specified by rule of the board.

515 Section 26. Subsection (2) of section 476.114, Florida  
 516 Statutes, is amended to read:

517 476.114 Examination; prerequisites.—

518 (2) An applicant shall be eligible for licensure by  
 519 examination to practice barbering if the applicant:

520 (a) Is at least 16 years of age;

521 (b) Pays the required application fee; and

522 (c)1. Holds an active valid license to practice barbering

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523 in another state, has held the license for at least 1 year, and  
 524 does not qualify for licensure by endorsement as provided for in  
 525 s. 476.144(5); or

526 2. Has received a minimum of 900 ~~1,200~~ hours of training in  
 527 sanitation, safety, and laws and rules, as established by the  
 528 board, which shall include, but shall not be limited to, the  
 529 equivalent of completion of services directly related to the  
 530 practice of barbering at one of the following:

- 531 a. A school of barbering licensed pursuant to chapter 1005;
- 532 b. A barbering program within the public school system; or
- 533 c. A government-operated barbering program in this state.

534

535 The board shall establish by rule procedures whereby the school  
 536 or program may certify that a person is qualified to take the  
 537 required examination after the completion of a minimum of 600  
 538 ~~1,000~~ actual school hours. If the person passes the examination,  
 539 she or he shall have satisfied this requirement; but if the  
 540 person fails the examination, she or he shall not be qualified  
 541 to take the examination again until the completion of the full  
 542 requirements provided by this section.

543 Section 27. Subsection (5) of section 476.144, Florida  
 544 Statutes, is amended to read:

545 476.144 Licensure.—

546 (5) The board shall certify as qualified for licensure by  
 547 endorsement as a barber in this state an applicant who holds a  
 548 current active license to practice barbering in another state.  
 549 The board shall adopt rules specifying procedures for the  
 550 licensure by endorsement of practitioners desiring to be  
 551 licensed in this state who hold a current active license in

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552 another ~~state or~~ country and who have met qualifications  
 553 substantially similar to, equivalent to, or greater than the  
 554 qualifications required of applicants from this state.

555 Section 28. Subsection (9) of section 477.013, Florida  
 556 Statutes, is amended to read:

557 477.013 Definitions.—As used in this chapter:

558 (9) "Hair braiding" means the weaving or interweaving of  
 559 natural human hair or commercial hair, including the use of hair  
 560 extensions or wefts, for compensation without cutting, coloring,  
 561 permanent waving, relaxing, removing, or chemical treatment ~~and~~  
 562 ~~does not include the use of hair extensions or wefts.~~

563 Section 29. Section 477.0132, Florida Statutes, is  
 564 repealed.

565 Section 30. Subsections (7) through (10) are added to  
 566 section 477.0135, Florida Statutes, to read:

567 477.0135 Exemptions.—

568 (7) A license or registration is not required for a person  
 569 whose occupation or practice is confined solely to hair braiding  
 570 as defined in s. 477.013(9).

571 (8) A license or registration is not required for a person  
 572 whose occupation or practice is confined solely to hair wrapping  
 573 as defined in s. 477.013(10).

574 (9) A license or registration is not required for a person  
 575 whose occupation or practice is confined solely to body wrapping  
 576 as defined in s. 477.013(12).

577 (10) A license or registration is not required for a person  
 578 whose occupation or practice is confined solely to applying  
 579 polish to fingernails and toenails.

580 Section 31. Subsections (6) and (7) of section 477.019,

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581 Florida Statutes, are amended to read:

582 477.019 Cosmetologists; qualifications; licensure;  
583 supervised practice; license renewal; endorsement; continuing  
584 education.-

585 (6) The board shall certify as qualified for licensure by  
586 endorsement as a cosmetologist in this state an applicant who  
587 holds a current active license to practice cosmetology in  
588 another state and who has completed a 2-hour course approved by  
589 the board on human immunodeficiency virus and acquired immune  
590 deficiency syndrome. ~~The board may not require proof of~~  
591 ~~educational hours if the license was issued in a state that~~  
592 ~~requires 1,200 or more hours of prelicensure education and~~  
593 ~~passage of a written examination. This subsection does not apply~~  
594 ~~to applicants who received their license in another state~~  
595 ~~through an apprenticeship program.~~

596 (7) (a) The board shall prescribe by rule continuing  
597 education requirements intended to ensure protection of the  
598 public through updated training of licensees and registered  
599 specialists, not to exceed 10 ~~16~~ hours biennially, as a  
600 condition for renewal of a license or registration as a  
601 specialist under this chapter. Continuing education courses  
602 shall include, but not be limited to, the following subjects as  
603 they relate to the practice of cosmetology: human  
604 immunodeficiency virus and acquired immune deficiency syndrome;  
605 Occupational Safety and Health Administration regulations;  
606 workers' compensation issues; state and federal laws and rules  
607 as they pertain to cosmetologists, cosmetology, salons,  
608 specialists, specialty salons, and booth renters; chemical  
609 makeup as it pertains to hair, skin, and nails; and

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610 environmental issues. Courses given at cosmetology conferences  
611 may be counted toward the number of continuing education hours  
612 required if approved by the board.

613 (b) ~~Any person whose occupation or practice is confined~~  
614 ~~solely to hair braiding, hair wrapping, or body wrapping is~~  
615 ~~exempt from the continuing education requirements of this~~  
616 ~~subsection.~~

617 ~~(c)~~ The board may, by rule, require any licensee in  
618 violation of a continuing education requirement to take a  
619 refresher course or refresher course and examination in addition  
620 to any other penalty. The number of hours for the refresher  
621 course may not exceed 48 hours.

622 Section 32. Subsection (1) of section 477.0201, Florida  
623 Statutes, is amended to read:

624 477.0201 Specialty registration; qualifications;  
625 registration renewal; endorsement.-

626 (1) Any person is qualified for registration as a  
627 specialist in any ~~one or more of the~~ specialty practice  
628 ~~practices~~ within the practice of cosmetology under this chapter  
629 who:

630 (a) Is at least 16 years of age or has received a high  
631 school diploma.

632 (b) Has received a certificate of completion ~~for: in a~~  
633 1. One hundred and eighty hours of training, as established  
634 by the board, which shall focus primarily on sanitation and  
635 safety, to practice specialties as defined in s. 477.013(6) (a)  
636 and (b); specialty pursuant to s. 477.013(6)

637 2. Two hundred and twenty hours of training, as established  
638 by the board, which shall focus primarily on sanitation and

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639 safety, to practice the specialty as defined in s.  
640 477.013(6)(c); or

641 3. Four hundred hours of training or the number of hours of  
642 training required to maintain minimum Pell Grant requirements,  
643 as established by the board, which shall focus primarily on  
644 sanitation and safety, to practice the specialties as defined in  
645 s. 477.013(6)(a)-(c).

646 (c) The certificate of completion specified in paragraph  
647 (b) must be from one of the following:

- 648 1. A school licensed pursuant to s. 477.023.  
649 2. A school licensed pursuant to chapter 1005 or the  
650 equivalent licensing authority of another state.  
651 3. A specialty program within the public school system.  
652 4. A specialty division within the Cosmetology Division of  
653 the Florida School for the Deaf and the Blind, provided the  
654 training programs comply with minimum curriculum requirements  
655 established by the board.

656 Section 33. Paragraph (f) of subsection (1) of section  
657 477.026, Florida Statutes, is amended to read:

658 477.026 Fees; disposition.—

659 (1) The board shall set fees according to the following  
660 schedule:

661 ~~(f) For hair braiders, hair wrappers, and body wrappers,~~  
662 ~~fees for registration shall not exceed \$25.~~

663 Section 34. Subsection (4) of section 477.0263, Florida  
664 Statutes, is amended, and subsection (5) is added to that  
665 section, to read:

666 477.0263 Cosmetology services to be performed in licensed  
667 salon; exceptions.—

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668 (4) Pursuant to rules adopted by the board, any cosmetology  
669 or specialty service may be performed in a location other than a  
670 licensed salon when the service is performed in connection with  
671 a special event and is performed by a person ~~who is employed by~~  
672 ~~a licensed salon and~~ who holds the proper license or specialty  
673 registration. ~~An appointment for the performance of any such~~  
674 ~~service in a location other than a licensed salon must be made~~  
675 ~~through a licensed salon.~~

676 (5) Hair shampooing, hair cutting, hair arranging, makeup  
677 application, nail polish removal, nail filing, nail buffing, and  
678 nail cleansing may be performed in a location other than a  
679 licensed salon when the service is performed by a person who  
680 holds the proper license.

681 Section 35. Paragraph (f) of subsection (1) of section  
682 477.0265, Florida Statutes, is amended to read:

683 477.0265 Prohibited acts.—

684 (1) It is unlawful for any person to:

685 (f) Advertise or imply that skin care services ~~or body~~  
686 ~~wrapping~~, as performed under this chapter, have any relationship  
687 to the practice of massage therapy as defined in s. 480.033(3),  
688 except those practices or activities defined in s. 477.013.

689 Section 36. Paragraph (a) of subsection (1) of section  
690 477.029, Florida Statutes, is amended to read:

691 477.029 Penalty.—

692 (1) It is unlawful for any person to:

693 (a) Hold himself or herself out as a cosmetologist ~~or~~  
694 ~~specialist, hair wrapper, hair braider, or body wrapper~~ unless  
695 duly licensed or registered, or otherwise authorized, as  
696 provided in this chapter.

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697 Section 37. Section 481.201, Florida Statutes, is amended  
698 to read:

699 481.201 Purpose.—The primary legislative purpose for  
700 enacting this part is to ensure that every architect practicing  
701 in this state meets minimum requirements for safe practice. It  
702 is the legislative intent that architects who fall below minimum  
703 competency or who otherwise present a danger to the public shall  
704 be prohibited from practicing in this state. ~~The Legislature~~  
705 ~~further finds that it is in the interest of the public to limit~~  
706 ~~the practice of interior design to interior designers or~~  
707 ~~architects who have the design education and training required~~  
708 ~~by this part or to persons who are exempted from the provisions~~  
709 ~~of this part.~~

710 Section 38. Section 481.203, Florida Statutes, is amended  
711 to read:

712 481.203 Definitions.—As used in this part, the term:

713 (3)(1) "Board" means the Board of Architecture and Interior  
714 Design.

715 (7)(2) "Department" means the Department of Business and  
716 Professional Regulation.

717 (1)(3) "Architect" or "registered architect" means a  
718 natural person who is licensed under this part to engage in the  
719 practice of architecture.

720 (5)(4) "Certificate of registration" means a license or  
721 registration issued by the department to a natural person to  
722 engage in the practice of architecture or interior design.

723 (4)(5) "Business organization" means a partnership, a  
724 limited liability company, a corporation, or an individual  
725 operating under a fictitious name "~~Certificate of authorization~~"

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726 ~~means a certificate issued by the department to a corporation or~~  
727 ~~partnership to practice architecture or interior design.~~

728 (2)(6) "Architecture" means the rendering or offering to  
729 render services in connection with the design and construction  
730 of a structure or group of structures which have as their  
731 principal purpose human habitation or use, and the utilization  
732 of space within and surrounding such structures. These services  
733 include planning, providing preliminary study designs, drawings  
734 and specifications, job-site inspection, and administration of  
735 construction contracts.

736 (16)(7) "Townhouse" is a single-family dwelling unit not  
737 exceeding three stories in height which is constructed in a  
738 series or group of attached units with property lines separating  
739 such units. Each townhouse shall be considered a separate  
740 building and shall be separated from adjoining townhouses by the  
741 use of separate exterior walls meeting the requirements for zero  
742 clearance from property lines as required by the type of  
743 construction and fire protection requirements; or shall be  
744 separated by a party wall; or may be separated by a single wall  
745 meeting the following requirements:

746 (a) Such wall shall provide not less than 2 hours of fire  
747 resistance. Plumbing, piping, ducts, or electrical or other  
748 building services shall not be installed within or through the  
749 2-hour wall unless such materials and methods of penetration  
750 have been tested in accordance with the Standard Building Code.

751 (b) Such wall shall extend from the foundation to the  
752 underside of the roof sheathing, and the underside of the roof  
753 shall have at least 1 hour of fire resistance for a width not  
754 less than 4 feet on each side of the wall.

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755 (c) Each dwelling unit sharing such wall shall be designed  
756 and constructed to maintain its structural integrity independent  
757 of the unit on the opposite side of the wall.

758 ~~(10)(8)~~ "Interior design" means designs, consultations,  
759 studies, drawings, specifications, and administration of design  
760 construction contracts relating to nonstructural interior  
761 elements of a building or structure. "Interior design" includes,  
762 but is not limited to, reflected ceiling plans, space planning,  
763 furnishings, and the fabrication of nonstructural elements  
764 within and surrounding interior spaces of buildings. "Interior  
765 design" specifically excludes the design of or the  
766 responsibility for architectural and engineering work, except  
767 for specification of fixtures and their location within interior  
768 spaces. As used in this subsection, "architectural and  
769 engineering interior construction relating to the building  
770 systems" includes, but is not limited to, construction of  
771 structural, mechanical, plumbing, heating, air-conditioning,  
772 ventilating, electrical, or vertical transportation systems, or  
773 construction which materially affects lifesafety systems  
774 pertaining to firesafety protection such as fire-rated  
775 separations between interior spaces, fire-rated vertical shafts  
776 in multistory structures, fire-rated protection of structural  
777 elements, smoke evacuation and compartmentalization, emergency  
778 ingress or egress systems, and emergency alarm systems.

779 ~~(13)(9)~~ "Registered interior designer" ~~or "interior~~  
780 ~~designer"~~ means a natural person who holds a valid certificate  
781 of registration to practice interior design is licensed under  
782 this part.

783 ~~(11)(10)~~ "Nonstructural element" means an element which

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784 does not require structural bracing and which is something other  
785 than a load-bearing wall, load-bearing column, or other load-  
786 bearing element of a building or structure which is essential to  
787 the structural integrity of the building.

788 ~~(12)(11)~~ "Reflected ceiling plan" means a ceiling design  
789 plan which is laid out as if it were projected downward and  
790 which may include lighting and other elements.

791 ~~(15)(12)~~ "Space planning" means the analysis, programming,  
792 or design of spatial requirements, including preliminary space  
793 layouts and final planning.

794 ~~(6)(13)~~ "Common area" means an area that is held out for  
795 use by all tenants or owners in a multiple-unit dwelling,  
796 including, but not limited to, a lobby, elevator, hallway,  
797 laundry room, clubhouse, or swimming pool.

798 ~~(8)(14)~~ "Diversified interior design experience" means  
799 experience which substantially encompasses the various elements  
800 of interior design services set forth under the definition of  
801 "interior design" in subsection ~~(10)(8)~~.

802 ~~(9)(15)~~ "Interior decorator services" includes the  
803 selection or assistance in selection of surface materials,  
804 window treatments, wallcoverings, paint, floor coverings,  
805 surface-mounted lighting, surface-mounted fixtures, and loose  
806 furnishings not subject to regulation under applicable building  
807 codes.

808 ~~(14)(16)~~ "Responsible supervising control" means the  
809 exercise of direct personal supervision and control throughout  
810 the preparation of documents, instruments of service, or any  
811 other work requiring the seal and signature of a licensee under  
812 this part.



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813 Section 39. Paragraph (a) of subsection (3) of section  
 814 481.205, Florida Statutes, is amended to read:  
 815 481.205 Board of Architecture and Interior Design.—  
 816 (3) (a) Notwithstanding the provisions of ss. 455.225,  
 817 455.228, and 455.32, the duties and authority of the department  
 818 to receive complaints and investigate and discipline persons  
 819 licensed or registered under this part, including the ability to  
 820 determine legal sufficiency and probable cause; to initiate  
 821 proceedings and issue final orders for summary suspension or  
 822 restriction of a license or certificate of registration pursuant  
 823 to s. 120.60(6); to issue notices of noncompliance, notices to  
 824 cease and desist, subpoenas, and citations; to retain legal  
 825 counsel, investigators, or prosecutorial staff in connection  
 826 with the licensed practice of architecture or registered and  
 827 interior design; and to investigate and deter the unlicensed  
 828 practice of architecture ~~and interior design~~ as provided in s.  
 829 455.228 are delegated to the board. All complaints and any  
 830 information obtained pursuant to an investigation authorized by  
 831 the board are confidential and exempt from s. 119.07(1) as  
 832 provided in s. 455.225(2) and (10).

833 Section 40. Section 481.207, Florida Statutes, is amended  
 834 to read:

835 481.207 Fees.—The board, by rule, may establish ~~separate~~  
 836 fees for architects and registered interior designers, to be  
 837 paid for applications, examination, reexamination, licensing and  
 838 renewal, delinquency, reinstatement, and recordmaking and  
 839 recordkeeping. The examination fee shall be in an amount that  
 840 covers the cost of obtaining and administering the examination  
 841 and shall be refunded if the applicant is found ineligible to

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842 sit for the examination. The application fee is nonrefundable.  
 843 The fee for initial application and examination for architects  
 844 ~~and interior designers~~ may not exceed \$775 plus the actual per  
 845 applicant cost to the department for purchase of the examination  
 846 from the National Council of Architectural Registration Boards  
 847 ~~or the National Council of Interior Design Qualifications,~~  
 848 ~~respectively,~~ or similar national organizations. The initial  
 849 nonrefundable fee for registered interior designers may not  
 850 exceed \$75. The biennial renewal fee for architects may not  
 851 exceed \$200. The biennial renewal fee for registered interior  
 852 designers may not exceed \$75 ~~\$500~~. The delinquency fee may not  
 853 exceed the biennial renewal fee established by the board for an  
 854 active license. The board shall establish fees that are adequate  
 855 to ensure the continued operation of the board and to fund the  
 856 proportionate expenses incurred by the department which are  
 857 allocated to the regulation of architects and registered  
 858 interior designers. Fees shall be based on department estimates  
 859 of the revenue required to implement this part and the  
 860 provisions of law with respect to the regulation of architects  
 861 and interior designers.

862 Section 41. Section 481.209, Florida Statutes, is amended  
 863 to read:

864 481.209 Examinations.—

865 (1) A person desiring to be licensed as a registered  
 866 architect by initial examination shall apply to the department,  
 867 complete the application form, and remit a nonrefundable  
 868 application fee. The department shall license any applicant who  
 869 the board certifies+

870 ~~(a)~~ has passed the licensure examination prescribed by

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871 board rule, and

872 ~~(b)~~ is a graduate of a school or college of architecture  
873 with a program accredited by the National Architectural  
874 Accreditation Board.

875 (2) A person seeking to obtain a certificate of  
876 registration as a registered interior designer and a seal  
877 pursuant to s. 481.221 must provide the department with his or  
878 her name and address and written proof that he or she has  
879 successfully passed the qualification examination prescribed by  
880 the Council for Interior Design Qualification or its successor  
881 entity or the California Council for Interior Design  
882 Certification or its successor entity, or has successfully  
883 passed an equivalent exam as determined by the department. A  
884 person desiring to be licensed as a registered interior designer  
885 shall apply to the department for licensure. The department  
886 shall administer the licensure examination for interior  
887 designers to each applicant who has completed the application  
888 form and remitted the application and examination fees specified  
889 in s. 481.207 and who the board certifies:

890 ~~(a) Is a graduate from an interior design program of 5~~  
891 ~~years or more and has completed 1 year of diversified interior~~  
892 ~~design experience;~~

893 ~~(b) Is a graduate from an interior design program of 4~~  
894 ~~years or more and has completed 2 years of diversified interior~~  
895 ~~design experience;~~

896 ~~(c) Has completed at least 3 years in an interior design~~  
897 ~~curriculum and has completed 3 years of diversified interior~~  
898 ~~design experience; or~~

899 ~~(d) Is a graduate from an interior design program of at~~

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900 ~~least 2 years and has completed 4 years of diversified interior~~  
901 ~~design experience.~~

902  
903 ~~Subsequent to October 1, 2000, for the purpose of having the~~  
904 ~~educational qualification required under this subsection~~  
905 ~~accepted by the board, the applicant must complete his or her~~  
906 ~~education at a program, school, or college of interior design~~  
907 ~~whose curriculum has been approved by the board as of the time~~  
908 ~~of completion. Subsequent to October 1, 2003, all of the~~  
909 ~~required amount of educational credits shall have been obtained~~  
910 ~~in a program, school, or college of interior design whose~~  
911 ~~curriculum has been approved by the board, as of the time each~~  
912 ~~educational credit is gained. The board shall adopt rules~~  
913 ~~providing for the review and approval of programs, schools, and~~  
914 ~~colleges of interior design and courses of interior design study~~  
915 ~~based on a review and inspection by the board of the curriculum~~  
916 ~~of programs, schools, and colleges of interior design in the~~  
917 ~~United States, including those programs, schools, and colleges~~  
918 ~~accredited by the Foundation for Interior Design Education~~  
919 ~~Research. The board shall adopt rules providing for the review~~  
920 ~~and approval of diversified interior design experience required~~  
921 ~~by this subsection.~~

922 Section 42. Section 481.213, Florida Statutes, is amended  
923 to read:

924 481.213 Licensure and registration.—

925 (1) The department shall license or register any applicant  
926 who the board certifies is qualified for licensure or  
927 registration and who has paid the initial licensure or  
928 registration fee. Licensure as an architect under this section

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929 shall be deemed to include all the rights and privileges of  
 930 ~~registration licensure~~ as an interior designer under this  
 931 section.

932 (2) The board shall certify for licensure or registration  
 933 by examination any applicant who passes the prescribed licensure  
 934 or registration examination and satisfies the requirements of  
 935 ss. 481.209 and 481.211, for architects, or the requirements of  
 936 s. 481.209, for interior designers.

937 (3) The board shall certify as qualified for a license by  
 938 endorsement as an architect or registration as a registered an  
 939 interior designer an applicant who:

940 (a) Qualifies to take the prescribed licensure or  
 941 registration examination, and has passed the prescribed  
 942 licensure registration examination or a substantially equivalent  
 943 examination in another jurisdiction, as set forth in s. 481.209  
 944 for architects or registered interior designers, as applicable,  
 945 and has satisfied the internship requirements set forth in s.  
 946 481.211 for architects;

947 (b) Holds a valid license to practice architecture or a  
 948 license, registration, or certification to practice interior  
 949 design issued by another jurisdiction of the United States, if  
 950 the criteria for issuance of such license were substantially  
 951 equivalent to the licensure criteria that existed in this state  
 952 at the time the license was issued; ~~provided, however, that an~~  
 953 ~~applicant who has been licensed for use of the title "interior~~  
 954 ~~design" rather than licensed to practice interior design shall~~  
 955 ~~not qualify hereunder;~~ or

956 (c) Has passed the prescribed licensure examination and  
 957 holds a valid certificate issued by the National Council of

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958 Architectural Registration Boards, and holds a valid license to  
 959 practice architecture issued by another state or jurisdiction of  
 960 the United States.

961  
 962 An architect who is licensed in another state who seeks  
 963 qualification for license by endorsement under this subsection  
 964 must complete a class approved by the board on the Florida  
 965 Building Code.

966 (4) The board may refuse to certify any applicant who has  
 967 violated any of the provisions of s. 481.223, s. 481.225, or s.  
 968 481.2251, as applicable.

969 (5) The board may refuse to certify any applicant who is  
 970 under investigation in any jurisdiction for any act which would  
 971 constitute a violation of this part or of chapter 455 until such  
 972 time as the investigation is complete and disciplinary  
 973 proceedings have been terminated.

974 (6) The board shall adopt rules to implement the provisions  
 975 of this part relating to the examination, internship, and  
 976 licensure of applicants.

977 (7) For persons whose licensure requires satisfaction of  
 978 the requirements of ss. 481.209 and 481.211, the board shall, by  
 979 rule, establish qualifications for certification of such persons  
 980 as special inspectors of threshold buildings, as defined in ss.  
 981 553.71 and 553.79, and shall compile a list of persons who are  
 982 certified. A special inspector is not required to meet standards  
 983 for certification other than those established by the board, and  
 984 the fee owner of a threshold building may not be prohibited from  
 985 selecting any person certified by the board to be a special  
 986 inspector. The board shall develop minimum qualifications for

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987 the qualified representative of the special inspector who is  
988 authorized under s. 553.79 to perform inspections of threshold  
989 buildings on behalf of the special inspector.

990 (8) A certificate of registration is not required for a  
991 person whose occupation or practice is confined to interior  
992 decorator services or for a person whose occupation or practice  
993 is confined to interior design except as required in this part.

994 Section 43. Subsection (1) of section 481.2131, Florida  
995 Statutes, is amended to read:

996 481.2131 Interior design; practice requirements; disclosure  
997 of compensation for professional services.-

998 (1) A registered interior designer is authorized to perform  
999 "interior design" as defined in s. 481.203. Interior design  
1000 documents prepared by a registered interior designer shall  
1001 contain a statement that the document is not an architectural or  
1002 engineering study, drawing, specification, or design and is not  
1003 to be used for construction of any load-bearing columns, load-  
1004 bearing framing or walls of structures, or issuance of any  
1005 building permit, except as otherwise provided by law. Interior  
1006 design documents that are prepared and sealed by a registered  
1007 interior designer must ~~may~~, if required by a permitting body, be  
1008 accepted by the permitting body ~~be submitted~~ for the issuance of  
1009 a building permit for interior construction excluding design of  
1010 any structural, mechanical, plumbing, heating, air-conditioning,  
1011 ventilating, electrical, or vertical transportation systems or  
1012 that materially affect lifesafety systems pertaining to  
1013 firesafety protection such as fire-rated separations between  
1014 interior spaces, fire-rated vertical shafts in multistory  
1015 structures, fire-rated protection of structural elements, smoke

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1016 evacuation and compartmentalization, emergency ingress or egress  
1017 systems, and emergency alarm systems. Interior design documents  
1018 submitted for the issuance of a building permit by an individual  
1019 performing interior design services who is not a licensed  
1020 architect must include a seal issued by the department and in  
1021 conformance with the requirements of s. 481.221.

1022 Section 44. Section 481.215, Florida Statutes, is amended  
1023 to read:

1024 481.215 Renewal of license or certificate of registration.-

1025 (1) Subject to the requirement of subsection (3), the  
1026 department shall renew a license or certificate of registration  
1027 upon receipt of the renewal application and renewal fee.

1028 (2) The department shall adopt rules establishing a  
1029 procedure for the biennial renewal of licenses and certificates  
1030 of registration.

1031 (3) A ~~No~~ license or certificate of registration renewal may  
1032 not shall be issued to an architect or a registered an interior  
1033 designer by the department until the licensee or registrant  
1034 submits proof satisfactory to the department that, during the 2  
1035 years before prior ~~to~~ application for renewal, the licensee or  
1036 registrant participated per biennium in not less than 20 hours  
1037 of at least 50 minutes each per biennium of continuing education  
1038 approved by the board. The board shall approve only continuing  
1039 education that builds upon the basic knowledge of architecture  
1040 or interior design. The board may make exception from the  
1041 requirements of continuing education in emergency or hardship  
1042 cases.

1043 (4) The board shall by rule establish criteria for the  
1044 approval of continuing education courses and providers and shall

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1045 by rule establish criteria for accepting alternative  
1046 nonclassroom continuing education on an hour-for-hour basis.

1047 (5) ~~For architects,~~ the board shall require, by rule  
1048 adopted pursuant to ss. 120.536(1) and 120.54, 2 ~~a specified~~  
1049 ~~number of~~ hours in specialized or advanced courses, ~~approved by~~  
1050 ~~the Florida Building Commission,~~ on any portion of the Florida  
1051 Building Code, adopted pursuant to part IV of chapter 553,  
1052 relating to the licensee's respective area of practice. Such  
1053 hours count towards the continuing education hours required  
1054 under subsection (3). A licensee may complete the courses  
1055 required under this subsection online.

1056 Section 45. Section 481.217, Florida Statutes, is amended  
1057 to read:

1058 481.217 Inactive status.—

1059 (1) The board may prescribe by rule continuing education  
1060 requirements as a condition of reactivating a license. The rules  
1061 may not require more than one renewal cycle of continuing  
1062 education to reactivate a license or registration for a  
1063 registered architect or registered interior designer. ~~For~~  
1064 ~~interior design,~~ the board may approve only continuing education  
1065 ~~that builds upon the basic knowledge of interior design.~~

1066 (2) The board shall adopt rules relating to application  
1067 procedures for inactive status and for the reactivation of  
1068 inactive licenses and registrations.

1069 Section 46. Section 481.219, Florida Statutes, is amended  
1070 to read:

1071 481.219 Qualification of business organizations  
1072 ~~certification of partnerships, limited liability companies, and~~  
1073 ~~corporations.~~—

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1074 (1) A licensee may ~~The practice of or the offer to practice~~  
1075 ~~architecture or interior design by licensees through a qualified~~  
1076 ~~business organization that offers corporation, limited liability~~  
1077 ~~company, or partnership offering architectural or interior~~  
1078 ~~design services to the public, or by a corporation, limited~~  
1079 ~~liability company, or partnership offering architectural or~~  
1080 ~~interior design services to the public through licensees under~~  
1081 ~~this part as agents, employees, officers, or partners, is~~  
1082 ~~permitted,~~ subject to the provisions of this section.

1083 (2) If a licensee or an applicant proposes to engage in the  
1084 practice of architecture as a business organization, the  
1085 licensee or applicant shall qualify the business organization  
1086 upon approval of the board ~~For the purposes of this section, a~~  
1087 ~~certificate of authorization shall be required for a~~  
1088 ~~corporation, limited liability company, partnership, or person~~  
1089 ~~practicing under a fictitious name, offering architectural~~  
1090 ~~services to the public jointly or separately. However, when an~~  
1091 ~~individual is practicing architecture in her or his own name,~~  
1092 ~~she or he shall not be required to be certified under this~~  
1093 ~~section. Certification under this subsection to offer~~  
1094 ~~architectural services shall include all the rights and~~  
1095 ~~privileges of certification under subsection (3) to offer~~  
1096 ~~interior design services.~~

1097 (3) (a) A business organization may not engage in the  
1098 practice of architecture unless its qualifying agent is a  
1099 registered architect under this part. A qualifying agent who  
1100 terminates an affiliation with a qualified business organization  
1101 shall immediately notify the department of such termination. If  
1102 such qualifying agent is the only qualifying agent for that

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1103 business organization, the business organization must be  
 1104 qualified by another qualifying agent within 60 days after the  
 1105 termination. Except as provided in paragraph (b), the business  
 1106 organization may not engage in the practice of architecture  
 1107 until it is qualified by another qualifying agent.

1108 (b) In the event a qualifying agent ceases employment with  
 1109 a qualified business organization, the executive director or the  
 1110 chair of the board may authorize another registered architect  
 1111 employed by the business organization to temporarily serve as  
 1112 its qualifying agent for a period of no more than 60 days. The  
 1113 business organization is not authorized to operate beyond such  
 1114 period under this chapter absent replacement of the qualifying  
 1115 agent who has ceased employment.

1116 (c) A qualifying agent shall notify the department in  
 1117 writing before engaging in the practice of architecture in her  
 1118 or his own name or in affiliation with a different business  
 1119 organization, and she or he or such business organization shall  
 1120 supply the same information to the department as required of  
 1121 applicants under this part.

1122 ~~(3) For the purposes of this section, a certificate of~~  
 1123 ~~authorization shall be required for a corporation, limited~~  
 1124 ~~liability company, partnership, or person operating under a~~  
 1125 ~~fictitious name, offering interior design services to the public~~  
 1126 ~~jointly or separately. However, when an individual is practicing~~  
 1127 ~~interior design in her or his own name, she or he shall not be~~  
 1128 ~~required to be certified under this section.~~

1129 (4) All final construction documents and instruments of  
 1130 service which include drawings, specifications, plans, reports,  
 1131 or other papers or documents that involve involving the practice

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1132 of architecture which are prepared or approved for the use of  
 1133 the business organization corporation, limited liability  
 1134 ~~company, or partnership~~ and filed for public record within the  
 1135 state ~~must shall~~ bear the signature and seal of the licensee who  
 1136 prepared or approved them and the date on which they were  
 1137 sealed.

1138 ~~(5) All drawings, specifications, plans, reports, or other~~  
 1139 ~~papers or documents prepared or approved for the use of the~~  
 1140 ~~corporation, limited liability company, or partnership by an~~  
 1141 ~~interior designer in her or his professional capacity and filed~~  
 1142 ~~for public record within the state shall bear the signature and~~  
 1143 ~~seal of the licensee who prepared or approved them and the date~~  
 1144 ~~on which they were sealed.~~

1145 ~~(6) The department shall issue a certificate of~~  
 1146 ~~authorization to any applicant who the board certifies as~~  
 1147 ~~qualified for a certificate of authorization and who has paid~~  
 1148 ~~the fee set in s. 481.207.~~

1149 ~~(7) The board shall allow a licensee or certify an~~  
 1150 ~~applicant to qualify one or more business organizations as~~  
 1151 ~~qualified for a certificate of authorization to offer~~  
 1152 ~~architectural or interior design services, or to use a~~  
 1153 ~~fictitious name to offer such services, if provided that:~~

1154 ~~(a) one or more of the principal officers of the~~  
 1155 ~~corporation or limited liability company, or one or more~~  
 1156 ~~partners of the partnership, and all personnel of the~~  
 1157 ~~corporation, limited liability company, or partnership who act~~  
 1158 ~~in its behalf in this state as architects, are registered as~~  
 1159 ~~provided by this part;~~~~or~~

1160 ~~(b) One or more of the principal officers of the~~

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1161 ~~corporation or one or more partners of the partnership, and all~~  
 1162 ~~personnel of the corporation, limited liability company, or~~  
 1163 ~~partnership who act in its behalf in this state as interior~~  
 1164 ~~designers, are registered as provided by this part.~~

1165 ~~(8) The department shall adopt rules establishing a~~  
 1166 ~~procedure for the biennial renewal of certificates of~~  
 1167 ~~authorization.~~

1168 ~~(9) The department shall renew a certificate of~~  
 1169 ~~authorization upon receipt of the renewal application and~~  
 1170 ~~biennial renewal fee.~~

1171 (6)(10) Each qualifying agent who qualifies a business  
 1172 organization, partnership, limited liability company, or and  
 1173 corporation certified under this section shall notify the  
 1174 department within 30 days after ~~of~~ any change in the information  
 1175 contained in the application upon which the qualification  
 1176 certification is based. Any registered architect or interior  
 1177 designer who qualifies the business organization shall ensure  
 1178 corporation, limited liability company, or partnership as  
 1179 provided in subsection (7) shall be responsible for ensuring  
 1180 responsible supervising control of projects of the business  
 1181 organization entity and shall notify the department of the upon  
 1182 termination of her or his employment with a business  
 1183 organization qualified partnership, limited liability company,  
 1184 or corporation certified under this section shall notify the  
 1185 department of the termination within 30 days after such  
 1186 termination.

1187 (7)(11) A business organization is not No corporation,  
 1188 limited liability company, or partnership shall be relieved of  
 1189 responsibility for the conduct or acts of its agents, employees,

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1190 or officers by reason of its compliance with this section.  
 1191 However, except as provided in s. 558.0035, the architect who  
 1192 signs and seals the construction documents and instruments of  
 1193 service is ~~shall~~ be liable for the professional services  
 1194 performed, and the interior designer who signs and seals the  
 1195 interior design drawings, plans, or specifications shall be  
 1196 liable for the professional services performed.

1197 ~~(12) Disciplinary action against a corporation, limited~~  
 1198 ~~liability company, or partnership shall be administered in the~~  
 1199 ~~same manner and on the same grounds as disciplinary action~~  
 1200 ~~against a registered architect or interior designer,~~  
 1201 ~~respectively.~~

1202 (8)(13) Nothing in This section may not ~~shall~~ be construed  
 1203 to mean that a certificate of registration to practice  
 1204 architecture must ~~or interior design shall~~ be held by a business  
 1205 organization ~~corporation, limited liability company, or~~  
 1206 ~~partnership. Nothing in This section does not prohibit a~~  
 1207 business organization from offering ~~prohibits corporations,~~  
 1208 ~~limited liability companies, and partnerships from joining~~  
 1209 ~~together to offer architectural, engineering, interior design,~~  
 1210 ~~surveying and mapping, and landscape architectural services, or~~  
 1211 ~~any combination of such services, to the public if the business~~  
 1212 organization, provided that each corporation, limited liability  
 1213 company, or partnership otherwise meets the requirements of law.

1214 ~~(14) Corporations, limited liability companies, or~~  
 1215 ~~partnerships holding a valid certificate of authorization to~~  
 1216 ~~practice architecture shall be permitted to use in their title~~  
 1217 ~~the term "interior designer" or "registered interior designer."~~

1218 Section 47. Subsections (5) and (10) of section 481.221,

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1219 Florida Statutes, are amended to read:

1220 481.221 Seals; display of certificate number.-

1221 (5) No registered interior designer shall affix, or permit  
1222 to be affixed, her or his seal or signature to any plan,  
1223 specification, drawing, or other document which depicts work  
1224 which she or he is not competent or registered licensed to  
1225 perform.

1226 (10) Each registered architect must ~~or interior designer,~~  
1227 ~~and each corporation, limited liability company, or partnership~~  
1228 ~~holding a certificate of authorization, shall include her or his~~  
1229 license its ~~certificate~~ number in any newspaper, telephone  
1230 directory, or other advertising medium used by the registered  
1231 licensee. Each business organization must include the license  
1232 number of the registered architect who serves as the qualifying  
1233 agent for that business organization in any newspaper, telephone  
1234 directory, or other advertising medium used by the business  
1235 organization architect, interior designer, corporation, limited  
1236 liability company, or partnership. A corporation, limited  
1237 liability company, or partnership is not required to display the  
1238 certificate number of individual registered architects or  
1239 interior designers employed by or working within the  
1240 corporation, limited liability company, or partnership.

1241 Section 48. Section 481.223, Florida Statutes, is amended  
1242 to read:

1243 481.223 Prohibitions; penalties; injunctive relief.-

1244 (1) A person may not knowingly:

1245 (a) Practice architecture unless the person is an architect  
1246 or a registered architect; however, a licensed architect who has  
1247 been licensed by the board and who chooses to relinquish or not

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1248 to renew his or her license may use the title "Architect,  
1249 Retired" but may not otherwise render any architectural  
1250 services.

1251 ~~(b) Practice interior design unless the person is a~~  
1252 ~~registered interior designer unless otherwise exempted herein,~~  
1253 ~~however, an interior designer who has been licensed by the board~~  
1254 ~~and who chooses to relinquish or not to renew his or her license~~  
1255 ~~may use the title "Interior Designer, Retired" but may not~~  
1256 ~~otherwise render any interior design services.~~

1257 (b)(e) Use the name or title "architect," ~~or~~ "registered  
1258 architect," or ~~"interior designer"~~ ~~or~~ "registered interior  
1259 designer," ~~or words to that effect,~~ when the person is not then  
1260 the holder of a valid license or certificate of registration  
1261 issued pursuant to this part. This paragraph does not restrict  
1262 the use of the name or title "interior designer" or "interior  
1263 design firm."

1264 (c)(d) Present as his or her own the license of another.

1265 (d)(e) Give false or forged evidence to the board or a  
1266 member thereof.

1267 (e)(f) Use or attempt to use an architect ~~or interior~~  
1268 designer license or interior design certificate of registration  
1269 that has been suspended, revoked, or placed on inactive or  
1270 delinquent status.

1271 (f)(g) Employ unlicensed persons to practice architecture  
1272 ~~or interior design.~~

1273 (g)(h) Conceal information relative to violations of this  
1274 part.

1275 (2) Any person who violates any provision of subsection (1)  
1276 commits a misdemeanor of the first degree, punishable as



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1277 provided in s. 775.082 or s. 775.083.

1278 (3) (a) Notwithstanding chapter 455 or any other law to the  
1279 contrary, an affected person may maintain an action for  
1280 injunctive relief to restrain or prevent a person from violating  
1281 paragraph (1) (a) or, paragraph (1) (b), ~~or paragraph (1) (c)~~. The  
1282 prevailing party is entitled to actual costs and attorney's  
1283 fees.

1284 (b) For purposes of this subsection, the term "affected  
1285 person" means a person directly affected by the actions of a  
1286 person suspected of violating paragraph (1) (a) or, paragraph  
1287 (1) (b), ~~or paragraph (1) (c)~~ and includes, but is not limited to,  
1288 the department, any person who received services from the  
1289 alleged violator, or any private association composed primarily  
1290 of members of the profession the alleged violator is practicing  
1291 or offering to practice or holding himself or herself out as  
1292 qualified to practice.

1293 Section 49. Section 481.2251, Florida Statutes, is amended  
1294 to read:

1295 481.2251 Disciplinary proceedings against registered  
1296 interior designers.—

1297 (1) The following acts constitute grounds for which the  
1298 disciplinary actions specified in subsection (2) may be taken:

1299 (a) Attempting to register ~~obtain, obtaining,~~ or renewing  
1300 registration, by bribery, by fraudulent misrepresentation, or  
1301 through an error of the board, ~~a license to practice interior~~  
1302 ~~design;~~

1303 (b) Having an interior design license, certification, or  
1304 registration ~~a license to practice interior design~~ revoked,  
1305 suspended, or otherwise acted against, including the denial of

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1306 licensure, registration, or certification by the licensing  
1307 authority of another jurisdiction for any act which would  
1308 constitute a violation of this part or of chapter 455;

1309 (c) Being convicted or found guilty, ~~regardless of~~  
1310 ~~adjudication~~, of a crime in any jurisdiction which directly  
1311 relates to the provision of interior design services or to the  
1312 ability to provide interior design services. ~~A plea of nolo~~  
1313 ~~contendere shall create a rebuttable presumption of guilt to the~~  
1314 ~~underlying criminal charges. However, the board shall allow the~~  
1315 ~~person being disciplined to present any evidence relevant to the~~  
1316 ~~underlying charges and the circumstances surrounding her or his~~  
1317 ~~plea;~~

1318 (d) False, deceptive, or misleading advertising;

1319 (e) ~~Failing to report to the board any person who the~~  
1320 ~~licensee knows is in violation of this part or the rules of the~~  
1321 ~~board;~~

1322 ~~(f) Aiding, assisting, procuring, or advising any~~  
1323 ~~unlicensed person to use the title "interior designer" contrary~~  
1324 ~~to this part or to a rule of the board;~~

1325 ~~(g) Failing to perform any statutory or legal obligation~~  
1326 ~~placed upon a registered interior designer;~~

1327 ~~(h)~~ Making or filing a report which the registrant licensee  
1328 knows to be false, intentionally or negligently failing to file  
1329 a report or record required by state or federal law, or  
1330 willfully impeding or obstructing such filing or inducing  
1331 another person to do so. Such reports or records shall include  
1332 only those which are signed in the capacity as a registered  
1333 interior designer;

1334 (f) (i) Making deceptive, untrue, or fraudulent

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1335 representations in the provision of interior design services;  
 1336 (g)(j) Accepting and performing professional  
 1337 responsibilities which the registrant licensee knows or has  
 1338 reason to know that she or he is not competent ~~or licensed~~ to  
 1339 perform;  
 1340 ~~(k) Violating any provision of this part, any rule of the~~  
 1341 ~~board, or a lawful order of the board previously entered in a~~  
 1342 ~~disciplinary hearing;~~  
 1343 ~~(l) Conspiring with another licensee or with any other~~  
 1344 ~~person to commit an act, or committing an act, which would tend~~  
 1345 ~~to coerce, intimidate, or preclude another licensee from~~  
 1346 ~~lawfully advertising her or his services;~~  
 1347 ~~(m) Acceptance of compensation or any consideration by an~~  
 1348 ~~interior designer from someone other than the client without~~  
 1349 ~~full disclosure of the compensation or consideration amount or~~  
 1350 ~~value to the client prior to the engagement for services, in~~  
 1351 ~~violation of s. 481.2131(2);~~  
 1352 (h)(n) Rendering or offering to render architectural  
 1353 services; or  
 1354 (i)(e) Committing an act of fraud or deceit, or of  
 1355 negligence, incompetency, or misconduct, in the practice of  
 1356 interior design, ~~including, but not limited to, allowing the~~  
 1357 ~~preparation of any interior design studies, plans, or other~~  
 1358 ~~instruments of service in an office that does not have a full-~~  
 1359 ~~time Florida-registered interior designer assigned to such~~  
 1360 ~~office or failing to exercise responsible supervisory control~~  
 1361 ~~over services or projects, as required by board rule.~~  
 1362 (2) When the board finds any person guilty of any of the  
 1363 grounds set forth in subsection (1), it may enter an order

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1364 taking the following action or imposing one or more of the  
 1365 following penalties:  
 1366 (a) Refusal to register the applicant ~~approve an~~  
 1367 ~~application for licensure;~~  
 1368 (b) Refusal to renew an existing registration license;  
 1369 (c) Removal from the state registry ~~Revocation or~~  
 1370 ~~suspension of a license; or~~  
 1371 (d) Imposition of an administrative fine not to exceed \$500  
 1372 ~~\$1,000~~ for each violation or separate offense and a fine of up  
 1373 to \$2,500 ~~\$5,000~~ for matters pertaining to a material violation  
 1374 of the Florida Building Code as reported by a local  
 1375 jurisdiction; ~~or~~  
 1376 ~~(e) Issuance of a reprimand.~~  
 1377 Section 50. Paragraph (b) of subsection (5), and  
 1378 subsections (6), and (8) of section 481.229, Florida Statutes,  
 1379 are amended to read:  
 1380 481.229 Exceptions; exemptions from licensure.—  
 1381 (5)  
 1382 (b) Notwithstanding any other provision of this part, all  
 1383 persons licensed as architects under this part shall be  
 1384 qualified for interior design registration licensure upon  
 1385 submission of a completed application for such license and a fee  
 1386 not to exceed \$30. Such persons shall be exempt from the  
 1387 requirements of s. 481.209(2). For architects licensed as  
 1388 interior designers, satisfaction of the requirements for renewal  
 1389 of licensure as an architect under s. 481.215 shall be deemed to  
 1390 satisfy the requirements for renewal of registration licensure  
 1391 as an interior designer under that section. Complaint  
 1392 processing, investigation, or other discipline-related legal

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1393 costs related to persons licensed as interior designers under  
1394 this paragraph shall be assessed against the architects' account  
1395 of the Regulatory Trust Fund.

1396 (6) This part shall not apply to:

1397 ~~(a) A person who performs interior design services or~~  
1398 ~~interior decorator services for any residential application,~~  
1399 ~~provided that such person does not advertise as, or represent~~  
1400 ~~himself or herself as, an interior designer. For purposes of~~  
1401 ~~this paragraph, "residential applications" includes all types of~~  
1402 ~~residences, including, but not limited to, residence buildings,~~  
1403 ~~single-family homes, multifamily homes, townhouses, apartments,~~  
1404 ~~condominiums, and domestic outbuildings appurtenant to one-~~  
1405 ~~family or two family residences. However, "residential~~  
1406 ~~applications" does not include common areas associated with~~  
1407 ~~instances of multiple-unit dwelling applications.~~

1408 ~~(b)~~ an employee of a retail establishment providing  
1409 "interior decorator services" on the premises of the retail  
1410 establishment or in the furtherance of a retail sale or  
1411 prospective retail sale, provided that such employee does not  
1412 advertise as, or represent himself or herself as, an interior  
1413 designer.

1414 (8) A manufacturer of commercial food service equipment or  
1415 the manufacturer's representative, distributor, or dealer or an  
1416 employee thereof, who prepares designs, specifications, or  
1417 layouts for the sale or installation of such equipment is exempt  
1418 from licensure as an architect ~~or interior designer~~, if:

1419 (a) The designs, specifications, or layouts are not used  
1420 for construction or installation that may affect structural,  
1421 mechanical, plumbing, heating, air conditioning, ventilating,

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1422 electrical, or vertical transportation systems.

1423 (b) The designs, specifications, or layouts do not  
1424 materially affect lifesafety systems pertaining to firesafety  
1425 protection, smoke evacuation and compartmentalization, and  
1426 emergency ingress or egress systems.

1427 (c) Each design, specification, or layout document prepared  
1428 by a person or entity exempt under this subsection contains a  
1429 statement on each page of the document that the designs,  
1430 specifications, or layouts are not architectural, ~~interior~~  
1431 ~~design~~, or engineering designs, specifications, or layouts and  
1432 not used for construction unless reviewed and approved by a  
1433 licensed architect or engineer.

1434 Section 51. Subsection (1) of section 481.231, Florida  
1435 Statutes, is amended to read:

1436 481.231 Effect of part locally.-

1437 (1) ~~Nothing in~~ This part does not shall be construed to  
1438 repeal, amend, limit, or otherwise affect any specific provision  
1439 of any local building code or zoning law or ordinance that has  
1440 been duly adopted, now or hereafter enacted, which is more  
1441 restrictive, with respect to the services of registered  
1442 architects or registered interior designers, than ~~the provisions~~  
1443 ~~of~~ this part; provided, however, that a licensed architect shall  
1444 be deemed registered licensed as an interior designer for  
1445 purposes of offering or rendering interior design services to a  
1446 county, municipality, or other local government or political  
1447 subdivision.

1448 Section 52. Section 481.303, Florida Statutes, is amended  
1449 to read:

1450 481.303 Definitions.-As used in this chapter, the term:

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- 1451 (1) "Board" means the Board of Landscape Architecture.  
 1452 ~~(3)(2)~~ "Department" means the Department of Business and  
 1453 Professional Regulation.  
 1454 ~~(6)(3)~~ "Registered landscape architect" means a person who  
 1455 holds a license to practice landscape architecture in this state  
 1456 under the authority of this act.  
 1457 ~~(2)(4)~~ "Certificate of registration" means a license issued  
 1458 by the department to a natural person to engage in the practice  
 1459 of landscape architecture.  
 1460 ~~(5) "Certificate of authorization" means a license issued~~  
 1461 ~~by the department to a corporation or partnership to engage in~~  
 1462 ~~the practice of landscape architecture.~~  
 1463 ~~(4)(6)~~ "Landscape architecture" means professional  
 1464 services, including, but not limited to, the following:  
 1465 (a) Consultation, investigation, research, planning,  
 1466 design, preparation of drawings, specifications, contract  
 1467 documents and reports, responsible construction supervision, or  
 1468 landscape management in connection with the planning and  
 1469 development of land and incidental water areas, including the  
 1470 use of Florida-friendly landscaping as defined in s. 373.185,  
 1471 where, and to the extent that, the dominant purpose of such  
 1472 services or creative works is the preservation, conservation,  
 1473 enhancement, or determination of proper land uses, natural land  
 1474 features, ground cover and plantings, or naturalistic and  
 1475 aesthetic values;  
 1476 (b) The determination of settings, grounds, and approaches  
 1477 for and the siting of buildings and structures, outdoor areas,  
 1478 or other improvements;  
 1479 (c) The setting of grades, shaping and contouring of land

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- 1480 and water forms, determination of drainage, and provision for  
 1481 storm drainage and irrigation systems where such systems are  
 1482 necessary to the purposes outlined herein; and  
 1483 (d) The design of such tangible objects and features as are  
 1484 necessary to the purpose outlined herein.  
 1485 ~~(5)(7)~~ "Landscape design" means consultation for and  
 1486 preparation of planting plans drawn for compensation, including  
 1487 specifications and installation details for plant materials,  
 1488 soil amendments, mulches, edging, gravel, and other similar  
 1489 materials. Such plans may include only recommendations for the  
 1490 conceptual placement of tangible objects for landscape design  
 1491 projects. Construction documents, details, and specifications  
 1492 for tangible objects and irrigation systems shall be designed or  
 1493 approved by licensed professionals as required by law.  
 1494 Section 53. Section 481.310, Florida Statutes, is amended  
 1495 to read:  
 1496 481.310 Practical experience requirement.—Beginning October  
 1497 1, 1990, every applicant for licensure as a registered landscape  
 1498 architect shall demonstrate, prior to licensure, 1 year of  
 1499 practical experience in landscape architectural work. An  
 1500 applicant who holds a master of landscape architecture degree  
 1501 and a bachelor's degree in a related field is not required to  
 1502 demonstrate 1 year of practical experience in landscape  
 1503 architectural work to obtain licensure. The board shall adopt  
 1504 rules providing standards for the required experience. An  
 1505 applicant who qualifies for examination pursuant to s.  
 1506 481.309(1)(b)1. may obtain the practical experience after  
 1507 completing the required professional degree. Experience used to  
 1508 qualify for examination pursuant to s. 481.309(1)(b)2. may not

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1509 be used to satisfy the practical experience requirement under  
1510 this section.

1511 Section 54. Subsections (3) and (4) of section 481.311,  
1512 Florida Statutes, are amended, to read:

1513 481.311 Licensure.—

1514 (3) The board shall certify as qualified for a license by  
1515 endorsement an applicant who+

1516 ~~(a) Qualifies to take the examination as set forth in s.~~  
1517 ~~481.309; and has passed a national, regional, state, or~~  
1518 ~~territorial licensing examination which is substantially~~  
1519 ~~equivalent to the examination required by s. 481.309; or~~

1520 ~~(b) holds a valid license to practice landscape~~  
1521 ~~architecture issued by another state or territory of the United~~  
1522 ~~States, if the criteria for issuance of such license were~~  
1523 ~~substantially identical to the licensure criteria which existed~~  
1524 ~~in this state at the time the license was issued.~~

1525 ~~(4) The board shall certify as qualified for a certificate~~  
1526 ~~of authorization any applicant corporation or partnership who~~  
1527 ~~satisfies the requirements of s. 481.319.~~

1528 Section 55. Subsection (4) of section 481.313, Florida  
1529 Statutes, is amended to read:

1530 481.313 Renewal of license.—

1531 (4) The board, by rule adopted pursuant to ss. 120.536(1)  
1532 and 120.54, shall establish criteria for the approval of  
1533 continuing education courses and providers, and shall by rule  
1534 establish criteria for accepting alternative nonclassroom  
1535 continuing education on an hour-for-hour basis. A landscape  
1536 architect shall receive hour-for-hour credit for attending  
1537 continuing education courses approved by the Landscape

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1538 Architecture Continuing Education System or another nationally  
1539 recognized clearinghouse for continuing education that relate to  
1540 and increase his or her basic knowledge of landscape  
1541 architecture, as determined by the board, if the landscape  
1542 architect submits proof satisfactory to the board that such  
1543 course was approved by the Landscape Architecture Continuing  
1544 Education System or another nationally recognized clearinghouse  
1545 for continuing education, along with the syllabus or outline for  
1546 such course and proof of course attendance.

1547 Section 56. Subsection (2) of section 481.317, Florida  
1548 Statutes, is amended to read:

1549 481.317 Temporary certificates.—

1550 ~~(2) Upon approval by the board and payment of the fee set~~  
1551 ~~in s. 481.307, the department shall grant a temporary~~  
1552 ~~certificate of authorization for work on one specified project~~  
1553 ~~in this state for a period not to exceed 1 year to an out-of-~~  
1554 ~~state corporation, partnership, or firm, provided one of the~~  
1555 ~~principal officers of the corporation, one of the partners of~~  
1556 ~~the partnership, or one of the principals in the fictitiously~~  
1557 ~~named firm has obtained a temporary certificate of registration~~  
1558 ~~in accordance with subsection (1).~~

1559 Section 57. Section 481.319, Florida Statutes, is amended  
1560 to read:

1561 481.319 Corporate and partnership practice of landscape  
1562 architecture, ~~certificate of authorization.~~—

1563 (1) The practice of or offer to practice landscape  
1564 architecture by registered landscape architects registered under  
1565 this part through a corporation or partnership offering  
1566 landscape architectural services to the public, or through a

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1567 corporation or partnership offering landscape architectural  
 1568 services to the public through individual registered landscape  
 1569 architects as agents, employees, officers, or partners, is  
 1570 permitted, subject to the provisions of this section, if:

1571 (a) One or more of the principal officers of the  
 1572 corporation, or partners of the partnership, and all personnel  
 1573 of the corporation or partnership who act in its behalf as  
 1574 landscape architects in this state are registered landscape  
 1575 architects; and

1576 (b) One or more of the officers, one or more of the  
 1577 directors, one or more of the owners of the corporation, or one  
 1578 or more of the partners of the partnership is a registered  
 1579 landscape architect; ~~and~~

1580 ~~(c) The corporation or partnership has been issued a~~  
 1581 ~~certificate of authorization by the board as provided herein.~~

1582 (2) All documents involving the practice of landscape  
 1583 architecture which are prepared for the use of the corporation  
 1584 or partnership shall bear the signature and seal of a registered  
 1585 landscape architect.

1586 (3) A landscape architect applying to practice in the name  
 1587 of a An applicant corporation must shall file with the  
 1588 department the names and addresses of all officers and board  
 1589 members of the corporation, including the principal officer or  
 1590 officers, duly registered to practice landscape architecture in  
 1591 this state and, also, of all individuals duly registered to  
 1592 practice landscape architecture in this state who shall be in  
 1593 responsible charge of the practice of landscape architecture by  
 1594 the corporation in this state. A landscape architect applying to  
 1595 practice in the name of a An applicant partnership must shall

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1596 file with the department the names and addresses of all partners  
 1597 of the partnership, including the partner or partners duly  
 1598 registered to practice landscape architecture in this state and,  
 1599 also, of an individual or individuals duly registered to  
 1600 practice landscape architecture in this state who shall be in  
 1601 responsible charge of the practice of landscape architecture by  
 1602 said partnership in this state.

1603 (4) Each landscape architect qualifying a partnership or  
 1604 ~~and~~ corporation ~~licensed~~ under this part must shall notify the  
 1605 department within 1 month after ~~of~~ any change in the information  
 1606 contained in the application upon which the license is based.  
 1607 Any landscape architect who terminates her or his or her  
 1608 employment with a partnership or corporation licensed under this  
 1609 part shall notify the department of the termination within 1  
 1610 month after such termination.

1611 (5) ~~Disciplinary action against a corporation or~~  
 1612 ~~partnership shall be administered in the same manner and on the~~  
 1613 ~~same grounds as disciplinary action against a registered~~  
 1614 ~~landscape architect.~~

1615 ~~(6)~~ Except as provided in s. 558.0035, the fact that a  
 1616 registered landscape architect practices landscape architecture  
 1617 through a corporation or partnership as provided in this section  
 1618 does not relieve the landscape architect from personal liability  
 1619 for her or his or her professional acts.

1620 Section 58. Subsection (5) of section 481.321, Florida  
 1621 Statutes, is amended to read:

1622 481.321 Seals; display of certificate number.—

1623 (5) Each registered landscape architect must and each  
 1624 ~~corporation or partnership holding a certificate of~~

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1625 ~~authorization shall~~ include her or his ~~its~~ certificate number in  
 1626 any newspaper, telephone directory, or other advertising medium  
 1627 used by the registered landscape architect, corporation, or  
 1628 partnership. A corporation or partnership ~~must is not required~~  
 1629 ~~to~~ display the certificate number ~~numbers~~ of at least one  
 1630 officer, director, owner, or partner who is a individual  
 1631 registered landscape architect ~~architects~~ employed by or  
 1632 practicing with the corporation or partnership.

1633 Section 59. Subsection (5) of section 481.329, Florida  
 1634 Statutes, is amended to read:

1635 481.329 Exceptions; exemptions from licensure.—

1636 (5) This part does not prohibit any person from engaging in  
 1637 the practice of landscape design, as defined in s. 481.303 ~~s.~~  
 1638 ~~481.303(7)~~, or from submitting for approval to a governmental  
 1639 agency planting plans that are independent of, or a component  
 1640 of, construction documents that are prepared by a Florida-  
 1641 registered professional. Persons providing landscape design  
 1642 services shall not use the title, term, or designation  
 1643 "landscape architect," "landscape architectural," "landscape  
 1644 architecture," "L.A.," "landscape engineering," or any  
 1645 description tending to convey the impression that she or he is a  
 1646 landscape architect unless she or he is registered as provided  
 1647 in this part.

1648 Section 60. Subsection (9) of section 489.103, Florida  
 1649 Statutes, is amended to read:

1650 489.103 Exemptions.—This part does not apply to:

1651 (9) Any work or operation of a casual, minor, or  
 1652 inconsequential nature in which the aggregate contract price for  
 1653 labor, materials, and all other items is less than \$2,500

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1654 ~~\$1,000~~, but this exemption does not apply:

1655 (a) If the construction, repair, remodeling, or improvement  
 1656 is a part of a larger or major operation, whether undertaken by  
 1657 the same or a different contractor, or in which a division of  
 1658 the operation is made in contracts of amounts less than \$2,500  
 1659 ~~\$1,000~~ for the purpose of evading this part or otherwise.

1660 (b) To a person who advertises that he or she is a  
 1661 contractor or otherwise represents that he or she is qualified  
 1662 to engage in contracting.

1663 Section 61. Subsection (2) of section 489.111, Florida  
 1664 Statutes, is amended to read:

1665 489.111 Licensure by examination.—

1666 (2) A person shall be eligible for licensure by examination  
 1667 if the person:

1668 (a) Is 18 years of age;

1669 (b) Is of good moral character; and

1670 (c) Meets eligibility requirements according to one of the  
 1671 following criteria:

1672 1. Has received a baccalaureate degree from an accredited  
 1673 4-year college in the appropriate field of engineering,  
 1674 architecture, or building construction and has 1 year of proven  
 1675 experience in the category in which the person seeks to qualify.  
 1676 For the purpose of this part, a minimum of 2,000 person-hours  
 1677 shall be used in determining full-time equivalency.

1678 2. Has a total of at least 4 years of active experience as  
 1679 a worker who has learned the trade by serving an apprenticeship  
 1680 as a skilled worker who is able to command the rate of a  
 1681 mechanic in the particular trade or as a foreman who is in  
 1682 charge of a group of workers and usually is responsible to a

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1683 superintendent or a contractor or his or her equivalent,  
 1684 provided, however, that at least 1 year of active experience  
 1685 shall be as a foreman.

1686 3. Has a combination of not less than 1 year of experience  
 1687 as a foreman and not less than 3 years of credits for any  
 1688 accredited college-level courses; has a combination of not less  
 1689 than 1 year of experience as a skilled worker, 1 year of  
 1690 experience as a foreman, and not less than 2 years of credits  
 1691 for any accredited college-level courses; or has a combination  
 1692 of not less than 2 years of experience as a skilled worker, 1  
 1693 year of experience as a foreman, and not less than 1 year of  
 1694 credits for any accredited college-level courses. All junior  
 1695 college or community college-level courses shall be considered  
 1696 accredited college-level courses.

1697 4.a. An active certified residential contractor is eligible  
 1698 to receive a certified building contractor license after passing  
 1699 or having previously passed ~~take~~ the building contractors'  
 1700 examination if he or she possesses a minimum of 3 years of  
 1701 proven experience in the classification in which he or she is  
 1702 certified.

1703 b. An active certified residential contractor is eligible  
 1704 to receive a certified general contractor license after passing  
 1705 or having previously passed ~~take~~ the general contractors'  
 1706 examination if he or she possesses a minimum of 4 years of  
 1707 proven experience in the classification in which he or she is  
 1708 certified.

1709 c. An active certified building contractor is eligible to  
 1710 receive a certified general contractor license after passing or  
 1711 having previously passed ~~take~~ the general contractors'

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1712 examination if he or she possesses a minimum of 4 years of  
 1713 proven experience in the classification in which he or she is  
 1714 certified.

1715 5.a. An active certified air-conditioning Class C  
 1716 contractor is eligible to receive a certified air-conditioning  
 1717 Class B contractor license after passing or having previously  
 1718 passed ~~take~~ the air-conditioning Class B contractors'  
 1719 examination if he or she possesses a minimum of 3 years of  
 1720 proven experience in the classification in which he or she is  
 1721 certified.

1722 b. An active certified air-conditioning Class C contractor  
 1723 is eligible to receive a certified air-conditioning Class A  
 1724 contractor license after passing or having previously passed  
 1725 ~~take~~ the air-conditioning Class A contractors' examination if he  
 1726 or she possesses a minimum of 4 years of proven experience in  
 1727 the classification in which he or she is certified.

1728 c. An active certified air-conditioning Class B contractor  
 1729 is eligible to receive a certified air-conditioning Class A  
 1730 contractor license after passing or having previously passed  
 1731 ~~take~~ the air-conditioning Class A contractors' examination if he  
 1732 or she possesses a minimum of 1 year of proven experience in the  
 1733 classification in which he or she is certified.

1734 6.a. An active certified swimming pool servicing contractor  
 1735 is eligible to receive a certified residential swimming pool  
 1736 contractor license after passing or having previously passed  
 1737 ~~take~~ the residential swimming pool contractors' examination if  
 1738 he or she possesses a minimum of 3 years of proven experience in  
 1739 the classification in which he or she is certified.

1740 b. An active certified swimming pool servicing contractor



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1741 is eligible to receive a certified commercial swimming pool  
 1742 contractor license after passing or having previously passed  
 1743 ~~take~~ the swimming pool commercial contractors' examination if he  
 1744 or she possesses a minimum of 4 years of proven experience in  
 1745 the classification in which he or she is certified.

1746 c. An active certified residential swimming pool contractor  
 1747 is eligible to receive a certified commercial swimming pool  
 1748 contractor license after passing or having previously passed  
 1749 ~~take~~ the commercial swimming pool contractors' examination if he  
 1750 or she possesses a minimum of 1 year of proven experience in the  
 1751 classification in which he or she is certified.

1752 d. An applicant is eligible to receive a certified swimming  
 1753 pool/spa servicing contractor license after passing or having  
 1754 previously passed ~~take~~ the swimming pool/spa servicing  
 1755 contractors' examination if he or she has satisfactorily  
 1756 completed 60 hours of instruction in courses related to the  
 1757 scope of work covered by that license and approved by the  
 1758 Construction Industry Licensing Board by rule and has at least 1  
 1759 year of proven experience related to the scope of work of such a  
 1760 contractor.

1761 Section 62. Subsection (3) of section 489.115, Florida  
 1762 Statutes, is amended to read:

1763 489.115 Certification and registration; endorsement;  
 1764 reciprocity; renewals; continuing education.—

1765 (3) The board shall certify as qualified for certification  
 1766 by endorsement any applicant who:

1767 (a) Meets the requirements for certification as set forth  
 1768 in this section; has passed a national, regional, state, or  
 1769 United States territorial licensing examination that is

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1770 substantially equivalent to the examination required by this  
 1771 part; and has satisfied the requirements set forth in s.  
 1772 489.111;

1773 (b) Holds a valid license to practice contracting issued by  
 1774 another state or territory of the United States, if the criteria  
 1775 for issuance of such license were substantially equivalent to  
 1776 Florida's current certification criteria; ~~or~~

1777 (c) Holds a valid, current license to practice contracting  
 1778 issued by another state or territory of the United States, if  
 1779 the state or territory has entered into a reciprocal agreement  
 1780 with the board for the recognition of contractor licenses issued  
 1781 in that state, based on criteria for the issuance of such  
 1782 licenses that are substantially equivalent to the criteria for  
 1783 certification in this state; or

1784 (d) Has held a valid, current license to practice  
 1785 contracting issued by another state or territory of the United  
 1786 States for at least 10 years before the date of application and  
 1787 is applying for the same or similar license in this state,  
 1788 subject to subsections (5)-(9). The board may consider whether  
 1789 such applicant has had a license to practice contracting  
 1790 revoked, suspended, or otherwise acted against by the licensing  
 1791 authority of another state, territory, or country. Such  
 1792 application must be made either when the license in another  
 1793 state or territory is active or within 2 years after such  
 1794 license was last active. Within 30 days after receiving a  
 1795 license, the licensee must complete a board-approved 4-hour  
 1796 continuing education course on the Florida Building Code and a  
 1797 1-hour course on the laws and rules of this state relating to  
 1798 contracting. The required courses may be completed online.

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1799 Section 63. Subsection (5) of section 489.511, Florida  
 1800 Statutes, is amended to read:  
 1801 489.511 Certification; application; examinations;  
 1802 endorsement.—  
 1803 (5) The board shall certify as qualified for certification  
 1804 by endorsement any individual applying for certification who:  
 1805 (a) Meets the requirements for certification as set forth  
 1806 in this section; has passed a national, regional, state, or  
 1807 United States territorial licensing examination that is  
 1808 substantially equivalent to the examination required by this  
 1809 part; and has satisfied the requirements set forth in s.  
 1810 489.521; ~~or~~  
 1811 (b) Holds a valid license to practice electrical or alarm  
 1812 system contracting issued by another state or territory of the  
 1813 United States, if the criteria for issuance of such license was  
 1814 substantially equivalent to the certification criteria that  
 1815 existed in this state at the time the certificate was issued; or  
 1816 (c) Has held a valid, current license to practice  
 1817 electrical or alarm system contracting issued by another state  
 1818 or territory of the United States for at least 10 years before  
 1819 the date of application and is applying for the same or similar  
 1820 license in this state, subject to ss. 489.510 and 489.521(3)(a),  
 1821 and subparagraph (1)(b)1. Such application must be made either  
 1822 when the license in another state or territory is active or  
 1823 within 2 years after such license was last active. Within 30  
 1824 days after receiving a license, the licensee must complete a  
 1825 board-approved 4-hour continuing education course on the Florida  
 1826 Building Code and a 1-hour course on the laws and rules of this  
 1827 state relating to electrical and alarm system contracting. The

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1828 required courses may be completed online.  
 1829 Section 64. Subsection (3) and paragraph (b) of subsection  
 1830 (4) of section 489.517, Florida Statutes, are amended to read:  
 1831 489.517 Renewal of certificate or registration; continuing  
 1832 education.—  
 1833 (3) (a) Each certificateholder or registrant licensed as a  
 1834 specialty contractor or an alarm system contractor shall provide  
 1835 proof, in a form established by rule of the board, that the  
 1836 certificateholder or registrant has completed at least 7 14  
 1837 classroom hours of at least 50 minutes each of continuing  
 1838 education courses during each biennium since the issuance or  
 1839 renewal of the certificate or registration. The board shall by  
 1840 rule establish criteria for the approval of continuing education  
 1841 courses and providers and may by rule establish criteria for  
 1842 accepting alternative nonclassroom continuing education on an  
 1843 hour-for-hour basis.  
 1844 (b) Each certificateholder or registrant licensed as an  
 1845 electrical contractor shall provide proof, in a form established  
 1846 by rule of the board, that the certificateholder or registrant  
 1847 has completed at least 11 classroom hours of at least 50 minutes  
 1848 each of continuing education courses during each biennium since  
 1849 the issuance or renewal of the certificate or registration. The  
 1850 board shall by rule establish criteria for the approval of  
 1851 continuing education courses and providers and may by rule  
 1852 establish criteria for accepting alternative nonclassroom  
 1853 continuing education on an hour-for-hour basis.  
 1854 (4)  
 1855 (b)1. For licensed specialty contractors or alarm system  
 1856 contractors, of the 7 14 classroom hours of continuing education

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1857 required, at least 1 hour ~~7 hours~~ must be on technical subjects,  
 1858 1 hour on workers' compensation, 1 hour on workplace safety, 1  
 1859 hour on business practices, and ~~for alarm system contractors and~~  
 1860 ~~electrical contractors engaged in alarm system contracting,~~ 2  
 1861 hours on false alarm prevention.

1862 2. For licensed electrical contractors, of the minimum 11  
 1863 classroom hours of continuing education required, at least 7  
 1864 hours must be on technical subjects, 1 hour on workers'  
 1865 compensation, 1 hour on workplace safety, and 1 hour on business  
 1866 practices. Electrical contractors engaged in alarm system  
 1867 contracting must also complete 2 hours on false alarm  
 1868 prevention.

1869 Section 65. Paragraph (b) of subsection (1) of section  
 1870 489.518, Florida Statutes, is amended to read:

1871 489.518 Alarm system agents.—

1872 (1) A licensed electrical or alarm system contractor may  
 1873 not employ a person to perform the duties of a burglar alarm  
 1874 system agent unless the person:

1875 (b) Has successfully completed a minimum of 14 hours of  
 1876 training within 90 days after employment, to include basic alarm  
 1877 system electronics in addition to related training including  
 1878 CCTV and access control training, with at least 2 hours of  
 1879 training in the prevention of false alarms. Such training shall  
 1880 be from a board-approved provider, and the employee or applicant  
 1881 for employment shall provide proof of successful completion to  
 1882 the licensed employer. The board shall by rule establish  
 1883 criteria for the approval of training courses and providers and  
 1884 may by rule establish criteria for accepting alternative  
 1885 nonclassroom education on an hour-for-hour basis. The board

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1886 shall approve providers that conduct training in other than the  
 1887 English language. The board shall establish a fee for the  
 1888 approval of training providers or courses, not to exceed \$60.  
 1889 Qualified employers may conduct training classes for their  
 1890 employees, with board approval.

1891 Section 66. Section 509.102, Florida Statutes, is created  
 1892 to read:

1893 509.102 Mobile food dispensing vehicles; preemption.—

1894 (1) As used in this section, the term "mobile food  
 1895 dispensing vehicle" means any vehicle that is a public food  
 1896 service establishment and that is self-propelled or otherwise  
 1897 movable from place to place and includes self-contained  
 1898 utilities, including, but not limited to, gas, water,  
 1899 electricity, or liquid waste disposal.

1900 (2) Regulation of mobile food dispensing vehicles involving  
 1901 licenses, registrations, permits, and fees is preempted to the  
 1902 state. A municipality, county, or other local governmental  
 1903 entity may not require a separate license, registration, or  
 1904 permit other than the license required under s. 509.241, or  
 1905 require the payment of any license, registration, or permit fee  
 1906 other than the fee required under s. 509.251, as a condition for  
 1907 the operation of a mobile food dispensing vehicle within the  
 1908 entity's jurisdiction. A municipality, county, or other local  
 1909 governmental entity may not prohibit mobile food dispensing  
 1910 vehicles from operating within the entirety of the entity's  
 1911 jurisdiction.

1912 (3) This section may not be construed to affect a  
 1913 municipality, county, or other local governmental entity's  
 1914 authority to regulate the operation of mobile food dispensing

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1915 vehicles other than the regulations described in subsection (2).

1916 Section 67. Paragraph (i) of subsection (2) of section

1917 548.003, Florida Statutes, is amended to read:

1918 548.003 Florida State Boxing Commission.—

1919 (2) The Florida State Boxing Commission, as created by  
1920 subsection (1), shall administer the provisions of this chapter.  
1921 The commission has authority to adopt rules pursuant to ss.

1922 120.536(1) and 120.54 to implement the provisions of this  
1923 chapter and to implement each of the duties and responsibilities  
1924 conferred upon the commission, including, but not limited to:

1925 ~~(i) Designation and duties of a knockdown timekeeper.~~

1926 Section 68. Subsection (1) of section 548.017, Florida  
1927 Statutes, is amended to read:

1928 548.017 Participants, managers, and other persons required  
1929 to have licenses.—

1930 (1) A participant, manager, trainer, second, ~~timekeeper,~~  
1931 referee, judge, ~~announcer,~~ physician, matchmaker, or promoter  
1932 must be licensed before directly or indirectly acting in such  
1933 capacity in connection with any match involving a participant. A  
1934 physician approved by the commission must be licensed pursuant  
1935 to chapter 458 or chapter 459, must maintain an unencumbered  
1936 license in good standing, and must demonstrate satisfactory  
1937 medical training or experience in boxing, or a combination of  
1938 both, to the executive director before working as the ringside  
1939 physician.

1940 Section 69. Paragraph (d) of subsection (1) of section  
1941 553.5141, Florida Statutes, is amended to read:

1942 553.5141 Certifications of conformity and remediation  
1943 plans.—

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1944 (1) For purposes of this section:

1945 (d) "Qualified expert" means:

1946 1. An engineer licensed pursuant to chapter 471.

1947 2. A certified general contractor licensed pursuant to  
1948 chapter 489.

1949 3. A certified building contractor licensed pursuant to  
1950 chapter 489.

1951 4. A building code administrator licensed pursuant to  
1952 chapter 468.

1953 5. A building inspector licensed pursuant to chapter 468.

1954 6. A plans examiner licensed pursuant to chapter 468.

1955 7. An interior designer registered ~~licensed~~ pursuant to  
1956 chapter 481.

1957 8. An architect licensed pursuant to chapter 481.

1958 9. A landscape architect licensed pursuant to chapter 481.

1959 10. Any person who has prepared a remediation plan related  
1960 to a claim under Title III of the Americans with Disabilities  
1961 Act, 42 U.S.C. s. 12182, that has been accepted by a federal  
1962 court in a settlement agreement or court proceeding, or who has  
1963 been qualified as an expert in Title III of the Americans with  
1964 Disabilities Act, 42 U.S.C. s. 12182, by a federal court.

1965 Section 70. Effective January 1, 2021, subsection (1) of  
1966 section 553.74, Florida Statutes, is amended to read:

1967 553.74 Florida Building Commission.—

1968 (1) The Florida Building Commission is created and located  
1969 within the Department of Business and Professional Regulation  
1970 for administrative purposes. Members are appointed by the  
1971 Governor subject to confirmation by the Senate. The commission  
1972 is composed of 19 ~~27~~ members, consisting of the following

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1973 members:

1974 (a) One architect licensed pursuant to chapter 481 with at  
 1975 least 5 years of experience in the design and construction of  
 1976 buildings designated for Group E or Group I occupancies by the  
 1977 Florida Building Code registered to practice in this state and  
 1978 actively engaged in the profession. The American Institute of  
 1979 Architects, Florida Section, is encouraged to recommend a list  
 1980 of candidates for consideration.

1981 (b) One structural engineer registered to practice in this  
 1982 state and actively engaged in the profession. The Florida  
 1983 Engineering Society is encouraged to recommend a list of  
 1984 candidates for consideration.

1985 (c) One air-conditioning contractor, or ~~mechanical~~  
 1986 contractor, or mechanical engineer certified to do business in  
 1987 this state and actively engaged in the profession. The Florida  
 1988 Air Conditioning Contractors Association, the Florida  
 1989 Refrigeration and Air Conditioning Contractors Association, ~~and~~  
 1990 the Mechanical Contractors Association of Florida, and the  
 1991 Florida Engineering Society are encouraged to recommend a list  
 1992 of candidates for consideration.

1993 (d) One electrical contractor or electrical engineer  
 1994 certified to do business in this state and actively engaged in  
 1995 the profession. The Florida Association of Electrical  
 1996 Contractors, ~~and~~ the National Electrical Contractors  
 1997 Association, Florida Chapter, and the Florida Engineering  
 1998 Society are encouraged to recommend a list of candidates for  
 1999 consideration.

2000 ~~(e) One member from fire protection engineering or~~  
 2001 ~~technology who is actively engaged in the profession. The~~

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

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2020474c2

2002 ~~Florida Chapter of the Society of Fire Protection Engineers and~~  
 2003 ~~the Florida Fire Marshals and Inspectors Association are~~  
 2004 ~~encouraged to recommend a list of candidates for consideration.~~

2005 ~~(e)-(f)~~ One certified general contractor or one certified  
 2006 building contractor certified to do business in this state and  
 2007 actively engaged in the profession. The Associated Builders and  
 2008 Contractors of Florida, the Florida Associated General  
 2009 Contractors Council, the Florida Home Builders Association, and  
 2010 the Union Contractors Association are encouraged to recommend a  
 2011 list of candidates for consideration.

2012 ~~(f)-(g)~~ One plumbing contractor licensed to do business in  
 2013 this state and actively engaged in the profession. The Florida  
 2014 Association of Plumbing, Heating, and Cooling Contractors is  
 2015 encouraged to recommend a list of candidates for consideration.

2016 ~~(g)-(h)~~ One roofing or sheet metal contractor certified to  
 2017 do business in this state and actively engaged in the  
 2018 profession. The Florida Roofing, Sheet Metal, and Air  
 2019 Conditioning Contractors Association and the Sheet Metal and Air  
 2020 Conditioning Contractors' National Association are encouraged to  
 2021 recommend a list of candidates for consideration.

2022 ~~(h)-(i)~~ One certified residential contractor licensed to do  
 2023 business in this state and actively engaged in the profession.  
 2024 The Florida Home Builders Association is encouraged to recommend  
 2025 a list of candidates for consideration.

2026 ~~(i)-(j)~~ Three members who are municipal, county, or district  
 2027 codes enforcement officials, one of whom is also a fire  
 2028 official. The Building Officials Association of Florida and the  
 2029 Florida Fire Marshals and Inspectors Association are encouraged  
 2030 to recommend a list of candidates for consideration.

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2031 ~~(k) One member who represents the Department of Financial~~  
 2032 ~~Services.~~

2033 ~~(l) One member who is a county codes enforcement official.~~  
 2034 ~~The Building Officials Association of Florida is encouraged to~~  
 2035 ~~recommend a list of candidates for consideration.~~

2036 (j) ~~(m)~~ One member of a Florida-based organization of  
 2037 persons with disabilities or a nationally chartered organization  
 2038 of persons with disabilities with chapters in this state which  
 2039 complies with or is certified to be compliant with the  
 2040 requirements of the Americans with Disability Act of 1990, as  
 2041 amended.

2042 (k) ~~(n)~~ One member of the manufactured buildings industry  
 2043 who is licensed to do business in this state and is actively  
 2044 engaged in the industry. The Florida Manufactured Housing  
 2045 Association is encouraged to recommend a list of candidates for  
 2046 consideration.

2047 ~~(e) One mechanical or electrical engineer registered to~~  
 2048 ~~practice in this state and actively engaged in the profession.~~  
 2049 ~~The Florida Engineering Society is encouraged to recommend a~~  
 2050 ~~list of candidates for consideration.~~

2051 ~~(p) One member who is a representative of a municipality or~~  
 2052 ~~a charter county. The Florida League of Cities and the Florida~~  
 2053 ~~Association of Counties are encouraged to recommend a list of~~  
 2054 ~~candidates for consideration.~~

2055 (l) ~~(q)~~ One member of the building products manufacturing  
 2056 industry who is authorized to do business in this state and is  
 2057 actively engaged in the industry. The Florida Building Material  
 2058 Association, the Florida Concrete and Products Association, and  
 2059 the Fenestration Manufacturers Association are encouraged to

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2060 recommend a list of candidates for consideration.

2061 (m) ~~(#)~~ One member who is a representative of the building  
 2062 owners and managers industry who is actively engaged in  
 2063 commercial building ownership or management. The Building Owners  
 2064 and Managers Association is encouraged to recommend a list of  
 2065 candidates for consideration.

2066 (n) ~~(s)~~ One member who is a representative of the insurance  
 2067 industry. The Florida Insurance Council is encouraged to  
 2068 recommend a list of candidates for consideration.

2069 ~~(t) One member who is a representative of public education.~~

2070 (o) ~~(u)~~ One member who is a swimming pool contractor  
 2071 licensed to do business in this state and actively engaged in  
 2072 the profession. The Florida Swimming Pool Association and the  
 2073 United Pool and Spa Association are encouraged to recommend a  
 2074 list of candidates for consideration.

2075 (p) ~~(v)~~ One member who is a representative of the green  
 2076 building industry and who is a third-party commission agent, a  
 2077 Florida board member of the United States Green Building Council  
 2078 or Green Building Initiative, a professional who is accredited  
 2079 under the International Green Construction Code (IGCC), or a  
 2080 professional who is accredited under Leadership in Energy and  
 2081 Environmental Design (LEED).

2082 (q) ~~(w)~~ One member who is a representative of a natural gas  
 2083 distribution system and who is actively engaged in the  
 2084 distribution of natural gas in this state. The Florida Natural  
 2085 Gas Association is encouraged to recommend a list of candidates  
 2086 for consideration.

2087 ~~(x) One member who is a representative of the Department of~~  
 2088 ~~Agriculture and Consumer Services' Office of Energy. The~~

Page 72 of 74

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

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2089 ~~Commissioner of Agriculture is encouraged to recommend a list of~~  
 2090 ~~candidates for consideration.~~

2091 ~~(y) One member who shall be the chair.~~

2092 Section 71. Subsection (5) is added to section 823.15,  
 2093 Florida Statutes, to read:

2094 823.15 Dogs and cats released from animal shelters or  
 2095 animal control agencies; sterilization requirement.—

2096 (5) Employees, agents, or contractors of a public or  
 2097 private animal shelter, a humane organization, or an animal  
 2098 control agency operated by a humane organization or by a county,  
 2099 municipality, or other incorporated political subdivision may  
 2100 implant dogs and cats with radio frequency identification  
 2101 microchips as part of their work with such public or private  
 2102 animal shelter, humane organization, or animal control agency.

2103 Section 72. Subsection (7) of section 558.002, Florida  
 2104 Statutes, is amended to read:

2105 558.002 Definitions.—As used in this chapter, the term:

2106 (7) "Design professional" means a person, as defined in s.  
 2107 1.01, who is licensed in this state as an architect, interior  
 2108 designer, a landscape architect, an engineer, a surveyor, or a  
 2109 geologist or who is a registered interior designer, as defined  
 2110 in s. 481.203.

2111 Section 73. Subsection (3) of section 559.25, Florida  
 2112 Statutes, is amended to read:

2113 559.25 Exemptions.—The provisions of this part shall not  
 2114 apply to or affect the following persons:

2115 ~~(3) Duly licensed auctioneers, selling at auction.~~

2116 Section 74. Paragraphs (h) and (k) of subsection (2) of  
 2117 section 287.055, Florida Statutes, are amended to read:

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2118 287.055 Acquisition of professional architectural,  
 2119 engineering, landscape architectural, or surveying and mapping  
 2120 services; definitions; procedures; contingent fees prohibited;  
 2121 penalties.—

2122 (2) DEFINITIONS.—For purposes of this section:

2123 (h) A "design-build firm" means a partnership, corporation,  
 2124 or other legal entity that:

2125 1. Is certified under s. 489.119 to engage in contracting  
 2126 through a certified or registered general contractor or a  
 2127 certified or registered building contractor as the qualifying  
 2128 agent; or

2129 2. Is qualified ~~certified~~ under s. 471.023 to practice or  
 2130 to offer to practice engineering; qualified ~~certified~~ under s.  
 2131 481.219 to practice or to offer to practice architecture; or  
 2132 qualified ~~certified~~ under s. 481.319 to practice or to offer to  
 2133 practice landscape architecture.

2134 (k) A "design criteria professional" means a firm that is  
 2135 qualified ~~who holds a current certificate of registration~~ under  
 2136 chapter 481 to practice architecture or landscape architecture  
 2137 or a firm who holds a current certificate as a registered  
 2138 engineer under chapter 471 to practice engineering and who is  
 2139 employed by or under contract to the agency for the providing of  
 2140 professional architect services, landscape architect services,  
 2141 or engineering services in connection with the preparation of  
 2142 the design criteria package.

2143 Section 75. Except as otherwise expressly provided in this  
 2144 act, this act shall take effect July 1, 2020.

From: Madill, Colton <[Colton.Madill@myfloridalicense.com](mailto:Colton.Madill@myfloridalicense.com)>  
 Sent: Friday, February 21, 2020 11:51 AM  
 To: Davis, Niki <[Niki.Davis@LASPBS.STATE.FL.US](mailto: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
<b>Initial License:</b>		
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)
<b>TOTAL FEES</b>	<b>(1,154,515)</b>	<b>(420,598)</b>
	<b>FY 20-21</b>	<b>FY 21-22</b>
<b>Total Impact on Revenue</b>	<b>(1,154,515)</b>	<b>(420,598)</b>
Professions	(1,146,785)	(411,268)
Labor	(830)	(830)
Boxing Commission	(1,000)	(1,000)
Y&S Broker	(5,900)	(7,500)



<b>Total</b>	<b>(1,154,515)</b>	<b>(420,598)</b>
	<b>FY 20-21</b>	<b>FY 21-22</b>
<b>Total Service Charge to General Revenue (8%)</b>	<b>(92,361)</b>	<b>(33,648)</b>
<b>Professions SC to GR</b>	(91,743)	(32,901)
<b>Labor</b>	(66)	(66)
<b>Boxing Commission</b>	(80)	(80)
<b>Y&amp;S Broker</b>	(472)	(600)
<b>Total</b>	<b>(92,361)</b>	<b>(33,648)</b>

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](mailto: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](mailto:Colton.Madill@myfloridalicense.com)>  
**Sent:** Monday, February 17, 2020 12:16 PM  
**To:** Davis, Niki <[Niki.Davis@LASPBS.STATE.FL.US](mailto:Niki.Davis@LASPBS.STATE.FL.US)>  
**Subject:** 474 Questions

Niki,

I believe Conner answered the question you had related to interior designers.

As for your 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](mailto:colton.madill@myfloridalicense.com)

**From:** Oxamendi, Miguel <[OXAMENDI.MIGUEL@flsenate.gov](mailto:OXAMENDI.MIGUEL@flsenate.gov)>  
**Sent:** Thursday, February 20, 2020 1:05 PM  
**To:** Davis, Niki <[Niki.Davis@LASPBS.STATE.FL.US](mailto:Niki.Davis@LASPBS.STATE.FL.US)>  
**Cc:** Imhof, Booter <[Imhof.Booter@flsenate.gov](mailto: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](mailto:KOON.LYNN@flsenate.gov)>  
**Sent:** Thursday, February 20, 2020 12:33 PM  
**To:** Imhof, Booter <[Imhof.Booter@flsenate.gov](mailto:Imhof.Booter@flsenate.gov)>; Oxamendi, Miguel <[OXAMENDI.MIGUEL@flsenate.gov](mailto: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](mailto:BobbieSmith@fdle.state.fl.us)>  
**Sent:** Thursday, February 20, 2020 12:19 PM  
**To:** Whaley, Karen <[Whaley.Karen@flsenate.gov](mailto:Whaley.Karen@flsenate.gov)>  
**Cc:** Koon, Lynn <[KOON.LYNN@flsenate.gov](mailto:KOON.LYNN@flsenate.gov)>; McKay, Todd <[MCKAY.TODD@flsenate.gov](mailto:MCKAY.TODD@flsenate.gov)>; Truxell, Rachel <[RachelTruxell@fdle.state.fl.us](mailto:RachelTruxell@fdle.state.fl.us)>; Draa, Ronald <[RonaldDraa@fdle.state.fl.us](mailto: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.

A handwritten signature in blue ink, appearing to read "Ben Albritton".

---

Senator Ben Albritton  
Florida Senate, District 26

**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.

Phone 850-443-4820

Street

TALLAHASSEE

FL

32301

Email david@norrob.com

City

State

Zip

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.*

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

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

Phone 407-843-8880

Orlando

City

FL

State

32801

Zip

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.

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

474  
Bill Number (if applicable)

525 354  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name CHRISTINE STAPLETT

Job Title EXECUTIVE DIRECTOR

Address 2834 LAMINGTON GREEN C Phone 850 386 8856  
Street

TALLAHASSEE FL 32308 Email CHAPLETT@FLSENATE.FL  
City State Zip

Speaking:  For  Against  Information

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

Representing FLORIDA DEPARTMENT OF REVENUE & DETAILING

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.

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)

525854

Amendment Barcode (if applicable)

Topic Derogation of Professions

Name MICHAEL VARDOL

Job Title President

Address 2550 South Ridgewood Ave -

Street South Daytona

City FL State 32119 Zip

Phone 386-405-2711

Email mey@intp-academy.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

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.**

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 OF PROFESSIONS

Name MICHAEL HALMON

Job Title PRESIDENT

Address 3665 E. Bay Dr

Street

Phone 727-686-7509

Largo FL 33771

City

State

Zip

Email michael.halmon@facs.org  
abschoon.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.

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)

525354  
Amendment Barcode (if applicable)

Topic DEREGULATION

Name SUSAN MORGAN

Job Title PRESIDENT

Address 1493 NW COCONUT PT LN  
Street

Phone 772 285 7692

STUART FL 34994  
City State Zip

Email SUSAN @ SUSAN MORGAN INTERIORS . 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.

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)

525354

Amendment Barcode (if applicable)

Topic deregulation

Name Lisbeth Linnert

Job Title Workplace Strategist

Address 9205 W. Sunrise Blvd  
Street

Phone 954-631-9843

Plantation FL 33322  
City State Zip

Email Lisbeth.linnert@jcwwhite.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.

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)

02/20/20  
Meeting Date

477

Bill Number (if applicable)

52357

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@ddesignmindllc.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

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)

525354

Amendment Barcode (if applicable)

Topic deregulation

Name Marissa Hibel

Job Title Project Coordinator

Address 302 Knights Run Av  
Street

Phone 813-480-0803

Tampa  
City

FL  
State

33602  
Zip

Email marissa.hibel@greshon-smith.com

Speaking:  For  Against  Information

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

Representing Greshon 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)

2/20/2020

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

Phone 229-977-3027

Street

TALLAHASSEE

City

FL

State

32311

Zip

Email NAMILKO@HOTMAIL.COM

Speaking:  For  Against  Information

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

Representing LIDA

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)

52354  
Amendment Barcode (if applicable)

Topic DEREGULATION

Name LAURI LEWALUEN

Job Title SALES / KNOW

Address JACKSONVILLE, FL 32217

Phone \_\_\_\_\_

Street

6936 LA LOMA DR

Email \_\_\_\_\_

City

State

Zip

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**

(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 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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**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 Carole Butler

Job Title FL Registered ID # 0001282

Address 324 Shamrock St. E.  
Street

Phone 850 264 9343

Tallahassee FL 32309  
City State Zip

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 Interiors

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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

474

Bill Number (if applicable)

525354

Amendment Barcode (if applicable)

Topic DEREGULATION

Name THOMAS WILKINSON

Job Title NBD

Address 1000 EAST EIGHTH AVE  
Street

Phone \_\_\_\_\_

TAMPA  
City

FL  
State

33605  
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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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)

525384  
Amendment Barcode (if applicable)

Topic DEREGULATION

Name LISA WAXMAN

Job Title PROFESSOR EMERITUS

Address 1411 AVONDALE WAY  
Street

Phone 850 443 0789

TALLAHASSEE FL 32317  
City State Zip

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

(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

~~52354~~

Amendment Barcode (if applicable)

Topic DEREGULATION

Name HAYS LEWON

Job Title STUDENT

Address 6936 LYLANA DRIVE

Street

Phone 9043091433

JACKSONVILLE FL 32217

City

State

Zip

Email HAYSLEWON@GMAIL.COM

Speaking:  For  Against  Information

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

Representing IIIA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

474

2/20/20  
Meeting Date

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

525354  
Bill Number (if applicable)

Topic DSREGULATION

Amendment Barcode (if applicable)

Name REBECCA CROSBY

Job Title INTERIOR DESIGNER

904-517-3308

Address 2865 FIRST AVE

Phone

Street FL 32034

FERNANDINA BEACH

Email

City State Zip

Speaking:  For  Against  Information

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

Representing 1101A

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

02/20/20  
Meeting Date

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

474

Bill Number (if applicable)

525354

Amendment Barcode (if applicable)

Topic DEREGULATION

Name SUSAN MORGAN

Job Title INTERIOR DESIGNER

Address 1493 NW COCONUT PT LN  
Street COURT

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 IIA / SUSAN MORGAN INTERIOR

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

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

Phone 508-560-2738

Street

Washington

DC

20010

Email brett.ewer@crossfit.com

City

State

Zip

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)

Topic DEDUCATION

525394  
Amendment Barcode (if applicable)

Name JILL PABLE

Job Title PROF/CHAIR FSU DEPT OF

INTERIOR ARCHITECTURE

Address 2109 SPRUCE AVE  
Street

Phone 220-2800  
05162

TALLAHASSEE FL 32300  
City State Zip

Email J.PABLE@FSU.EDU

Speaking:  For  Against  Information

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

Representing SSCF / FSU

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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

474

Bill Number (if applicable)

525354

Amendment Barcode (if applicable)

Topic DEREGULATION

Name WANNA GOETZ

Job Title PRESIDENT

Address P.O. BOX 553  
Street

Phone 954-601-5648

DEERFIELD BEACH  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing ASIA SFLA CHAPTER

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

02/29/20  
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

Phone 904-651-9256

Jacksonville FL 32202  
City State Zip

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 IDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

02/20/20  
Meeting Date

474  
Bill Number (if applicable)

52535A  
Amendment Barcode (if applicable)

Topic Deregulation

Name Mary Couch

Job Title Senior Interior Designer

Address 225 Water Street, Suite 2200  
Street

Phone 904.332.6699

Jacksonville FL 32202  
City State Zip

Email Mary.couch@  
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

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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)

522394

Amendment Barcode (if applicable)

Topic Derogulation

Name Reghan Elliott

Job Title Student - FSU

Address \_\_\_\_\_  
Street

Phone 850 406 9687

City

State

Zip

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

Phone 850-491-0929

Jacksonville FL 32207  
City State Zip

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

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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 ~~Regg~~ Deregulation

Name Michael Ruggiano

Job Title Interior Designer

Address 3505 SW 27th St. Apt. 313

Phone 772-360-7974

Street

Gainesville

FL

32608

City

State

Zip

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

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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

Jacksonville FL 32207

City State Zip

Phone 904 683 6625

Email michele@micamydesign.com

Speaking:  For  Against  Information

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

Representing Micamy Design Studio

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

20 FEB 2020

Meeting Date

474

Bill Number (if applicable)

525354

Amendment Barcode (if applicable)

Topic DEREGULATION

Name SUE BROWN

Job Title DIRECTOR OF CORPORATE INTERIORS

Address 4807 VICTOR ST  
Street

Phone 904-386-6675

JACKSONVILLE FL 32210  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing MICAMY 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**

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2/20/20  
Meeting Date

474

Bill Number (if applicable)

525-354

Amendment Barcode (if applicable)

Topic Deregulation

Name Samantha Untea

Job Title Interior Designer

Address 969 Learning Way  
Street

Phone 850-901-5864

Tallahassee FL 32306  
City State Zip

Email sbaker4@F...

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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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

S13 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

City

FL

State

32092

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

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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 Emily Haynes

Job Title Interior Designer

Address 10075 Gate Parkway N Apt 2711 Phone 904 616 3431  
Street

Jacksonville FL 32246  
City State Zip

Email haynesea@gmail.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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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)

525 35A  
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

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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

474

Bill Number (if applicable)

525354

Amendment Barcode (if applicable)

Topic Deregulation

Name Hays ~~Gwathen~~ Lewallen

Job Title Student

Address 6936 La Loma Dr

Phone <sup>904</sup> 3091433

Street  
Jacksonville FL 32217  
City State Zip

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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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 De regulation

Name Lauri Lewallen

Job Title Sales/Kroll

Address 6936 LA COMA DR

Street

Phone 904 314 3948

JACKSONVILLE, FL 32217

City

State

Zip

Email llewallen@kroll.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**

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)

525354

Amendment Barcode (if applicable)

Topic DEREGULATION

Name SARAH RINK

Job Title INTERIOR DESIGNER

Address 1263 RENSSELAER AVENUE

Street

Phone 904.673.5418

JACKSONVILLE

FL

32205

Email sarah@dcoop.com

City

State

Zip

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

Phone 904-632-4600

Jacksonville FL 32202  
City State Zip

Email jperez@hota design.com

Speaking:  For  Against  Information

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

Representing IIQA 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 KELLEY ROBINSON

Job Title ASID FLORIDA NORTH PRESIDENT

Address 1505 COLONIAL DRIVE

Street

Phone 850-284-4235

TALLAHASSEE

FL

32303

Email kelly@workshop131.com

City

State

Zip

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)

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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

Phone 904.632.4800

JACKSONVILLE

City

FL

State

32202

Zip

Email JCARDENAS@HOTADESIGN.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  
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2/20/2020  
Meeting Date

474  
Bill Number (if applicable)

52535A  
Amendment Barcode (if applicable)

Topic Deregulation

Name Anna Osborne

Job Title Interior Designer @ MLD Architects

Address 211 John Knox Rd. Ste 105

Phone 850-385-9200

Tallahassee FL 32303  
City State Zip

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)

2/29/20

Meeting Date

474

Bill Number (if applicable)

525334

Amendment Barcode (if applicable)

Topic Deregulation

Name Emily Ely

Job Title Associate, Senior Interior Designer (850)

Address 413 All Saints Street

Phone 222-8100

Street

Tallahassee

FL

City

State

32301

Zip

Email ely@architects-

gla.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)

Topic Deregulation of Professions

Amendment Barcode (if applicable)

Name MEZ VAROL

Job Title President

Address 2550 South Ridgewood Ave

Phone 386-405-2711

Street  
South Daytona FL 32119  
City State Zip

Email mez@intl-academy.com

Speaking:  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  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)

Topic DEREGULATION OF PROFESSIONS

Amendment Barcode (if applicable)

Name MICHAEL HALMON

Job Title PRESIDENT

Address 3665 E. Bay Dr

Phone 727-686-7509

Street

Largo

FL

33771

City

State

Zip

Email Michael.Halmon@AASchool.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

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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 2001 Blair Stone Rd.

Phone (850)487-4827

Tallahassee FL 32399  
City State Zip

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2/20/2020

Meeting Date

474

Bill Number (if applicable)

Topic DEREGULATION

Amendment Barcode (if applicable)

Name CHRISTIAN CAUMATA

Job Title \_\_\_\_\_

Address 2 S BISCAYNE BLVD #3180

Phone 305 721-1600

Street

MIAMI FL 33131

Email CHRISTIAN@CHUMPERCONSULTANTSFL.COM

City

State

Zip

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 East Adams Dr.  
Street

Phone 813-654-4529

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 Artistic Nails & Beauty Academy

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

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  
Tall FL 32311  
City State Zip

Phone 850-251-2283

Email smorham@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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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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

Phone 850-701-3603

Tallahassee FL 32302  
City State Zip

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2/20/20  
Meeting Date

474  
Bill Number (if applicable)

Topic DELEG

Amendment Barcode (if applicable)

Name SAL NUZZO

Job Title 100 S. DUVAL ST

Address TALLAHASSEE FL 32301

Phone \_\_\_\_\_

Street

City

State

Zip

Email SNUZZO@JAMES MADISON.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

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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 De regulation

Amendment Barcode (if applicable)

Name James Mosteller

Job Title Advocacy Associate

Address 215 S Monroe St  
Street

Phone 850/727-3712

Tallahassee  
City State Zip

Email JamesM@excel.net

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

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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

474

Bill Number (if applicable)

52354

Amendment Barcode (if applicable)

Topic PRO DEREGULATION OF INTERIOR DESIGN

Name DOUGLAS FELDMAN

Job Title OWNER

Address 345 West PALMETTO PK RD

Phone 561-447-7301

Street

BOCA RATON FL 33432

City

State

Zip

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

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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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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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	<b>Fav/CS</b>
2.	McKnight	Kynoch	AP	<b>Fav/CS</b>
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

### 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.<sup>4</sup>

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.<sup>5</sup>

The U.S. Center for Biologics Evaluation and Research (CBER) regulates HCT/Ps.<sup>6</sup> 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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<sup>1</sup> Agency for Health Care Administration, *CS/SB 512 Bill Analysis* (Feb. 14, 2020) (on file with the Senate Committee on Appropriations).

<sup>2</sup> National Institutes of Health, Stem Cell Information, Glossary, *Stem Cells* <https://stemcells.nih.gov/glossary.htm#stemcells> (last visited Jan. 27, 2020).

<sup>3</sup> National Institutes of Health, Stem Cell Information, *Stem Cell Basics I*, <https://stemcells.nih.gov/info/basics/1.htm> (last visited Jan. 27, 2020).

<sup>4</sup> 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).

<sup>5</sup> 21 C.F.R. 1271.3(d).

<sup>6</sup> 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.<sup>7</sup>

Minimally manipulated bone marrow is also used in stem cell treatments but is not considered by the FDA to be an HCT/Ps,<sup>8</sup> and thus is not regulated by the FDA.<sup>9</sup> The HRSA regulates minimally manipulated bone marrow stem cells used for transplant.<sup>10</sup>

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.<sup>11</sup>

An HCT/P is exempt from registration and regulation under the Public Health Service Act (PHSA)<sup>12</sup> and 21 C.F.R. 1271, if the establishment:<sup>13</sup>

- Uses the HCT/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.<sup>14</sup>

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<sup>7</sup> 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).

<sup>8</sup> See 21 C.F.R. 1271.3(d)(4).

<sup>9</sup> U.S. Food and Drug Administration, *FDA Warns About Stem Cell Therapies*, available at <https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm286155.htm> (last visited Jan. 27, 2020).

<sup>10</sup> 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).

<sup>11</sup> *Supra* note 4.

<sup>12</sup> 42 U.S.C. s. 262.

<sup>13</sup> 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).

<sup>14</sup> 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,<sup>15</sup> the HCT/P will be regulated as a drug, device, and/or biological product under the federal FDCA, the PHSA,<sup>16</sup> and applicable regulations;<sup>17</sup> and premarket review will be required.<sup>18</sup>

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.<sup>19</sup>

Federal law requires tissue establishments<sup>20</sup> 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.<sup>21</sup>

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.<sup>22</sup>

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.<sup>23</sup>

## **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.<sup>24</sup> In Florida, “a

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<sup>15</sup> 21 C.F.R., 1271.10, 1271.15 and 1271.155.

<sup>16</sup> *Supra* note 12.

<sup>17</sup> 21 C.F.R. 1271.

<sup>18</sup> *Supra* note 4.

<sup>19</sup> *Id.*

<sup>20</sup> *Supra* note 13.

<sup>21</sup> *See* 21 C.F.R 1270 and 1271.2121.

<sup>22</sup> *Supra* note 7.

<sup>23</sup> 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).

<sup>24</sup> *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.”<sup>25</sup>

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),<sup>26</sup> official Homeopathic Pharmacopoeia of the United States (HPUS),<sup>27</sup> 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.<sup>28</sup>

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.<sup>29</sup>

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.<sup>30</sup>

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.<sup>31</sup>

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<sup>25</sup> Section 499.023, F.S.

<sup>26</sup> 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).

<sup>27</sup> 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 Pharmacopoeia of the United States, or official National Formulary or any supplement to any of them.

<sup>28</sup> Section 499.003(17), F.S.

<sup>29</sup> Section 499.003(28), F.S.

<sup>30</sup> 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.

<sup>31</sup> 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.<sup>32</sup> 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).<sup>33</sup>

### **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.<sup>34</sup>

Each registered physician's office must establish financial responsibility<sup>35</sup> 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.<sup>36</sup>

The DOH will inspect registered physicians' offices that are not nationally accredited, to ensure the safety of the people of Florida.<sup>37</sup>

### **Health Care Clinics**

The Health Care Clinic Act<sup>38</sup> provides the Agency for Health Care Administration (AHCA) with licensing and regulatory authority to provide standards and oversight for health care clinics.<sup>39</sup> 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.<sup>40</sup> 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

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<sup>32</sup> See ss. 395.002, 458.328, 459.0138, and 400.9935, F.S.; Rules 64B8-9.009 and 64B15-14.007, F.A.C..

<sup>33</sup> Section 465.0158, F.S.

<sup>34</sup> Sections 458.328 and 459.0138, F.S.; Rules 64B8-9.009 and 64B15-14.007, F.A.C..

<sup>35</sup> Section 458.328(1)(c), F.S.

<sup>36</sup> Section 458.328(1)(b), F.S.

<sup>37</sup> 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).

<sup>38</sup> Part X of ch. 400, F.S.

<sup>39</sup> Section 400.990, F.S.

<sup>40</sup> 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.<sup>41</sup>

### **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.<sup>42</sup>

### **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.<sup>43</sup> 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.<sup>44</sup>

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.<sup>45</sup> 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.<sup>46</sup> 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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<sup>41</sup> *Id.*

<sup>42</sup> Section 395.002(3), F.S.

<sup>43</sup> Sections 458.331(v) and 459.015(z), F.S.

<sup>44</sup> *Id.*

<sup>45</sup> 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).

<sup>46</sup> *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.<sup>47</sup>

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.

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<sup>47</sup> *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.<sup>48</sup>

**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;
  - Performs 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.

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<sup>48</sup> *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	.	
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	.	
	.	

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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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11           2. A compounded drug containing human nonembryonic stem  
12 cells; or

13           3. A compounded product containing human nonembryonic stem  
14 cells.

15           (b) Human nonembryonic stem cells, compounded drugs  
16 containing human nonembryonic stem cells, or products containing  
17 human nonembryonic stem cells may not be sold or dispensed by  
18 any person or establishment other than the nonembryonic stem  
19 cell bank or pharmacist at the nonembryonic stem cell bank that  
20 manufactured the human nonembryonic stem cells or the compounded  
21 drug or product containing human nonembryonic stem cells, except  
22 that:

23           1. A health care practitioner who requests the dispensing  
24 of the human nonembryonic stem cells, compounded drug, or  
25 compounded product from the manufacturing nonembryonic stem cell  
26 bank may sell or dispense such items to his or her patient if  
27 the health care practitioner is authorized within the scope of  
28 his or her license to prescribe and administer human  
29 nonembryonic stem cells; or

30           2. A pharmacist, pharmacy, or establishment that requests  
31 the dispensing of the human nonembryonic stem cells, compounded  
32 drug, or compounded product from the manufacturing nonembryonic  
33 stem cell bank may sell or dispense such items to a health care  
34 practitioner who is authorized within the scope of his or her  
35 license to prescribe and administer human nonembryonic stem  
36 cells to patients.

37           (4) HEALTH CARE PRACTITIONER RESPONSIBILITIES.—

38           (a) A physician licensed under chapter 458 or chapter 459,  
39 an advanced practice registered nurse licensed under chapter





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40 464, or a physician assistant licensed under chapter 458 or  
41 chapter 459 may not practice in a nonembryonic stem cell bank  
42 that is not licensed with the agency as required by the rules  
43 adopted pursuant to s. 400.9925. The license of a health care  
44 practitioner who violates this paragraph is subject to  
45 disciplinary action by the appropriate regulatory board.

46 (b) In the performance of any procedure collecting,  
47 storing, using, or purporting to use nonembryonic stem cells or  
48 products containing nonembryonic stem cells, a health care  
49 practitioner must adhere to the applicable current good  
50 manufacturing practices for the collection, removal,  
51 manufacturing, processing, compounding, and implantation of stem  
52 cells or products containing stem cells pursuant to the federal  
53 act and 21 C.F.R., parts 1270-1271.

54 (5) RULEMAKING.—The agency shall adopt rules necessary to  
55 administer the licensure and regulation of nonembryonic stem  
56 cell banks, including, but not limited to, rules regarding all  
57 of the following, which must be consistent with the best  
58 practices specified in the federal act and 21 C.F.R., parts  
59 1270-1271:

60 (a) Advertising.

61 (b) Nonembryonic stem cell bank procedures and protocols  
62 for the collection, manufacturing, storing, dispensing, and use  
63 of nonembryonic stem cells, drugs containing nonembryonic stem  
64 cells, and products containing nonembryonic stem cells in  
65 accordance with the applicable current best practices.

66 (c) Adverse incident reporting.

67 (d) Informed consent.

68 (e) Recordkeeping, record retention, and availability of



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69 records for inspection.

70       Section 2. This act shall take effect July 1, 2020,  
71 contingent on SB 7066 or similar legislation taking effect on  
72 that same date, if such legislation is adopted in the same  
73 legislative session or an extension thereof and becomes a law.

74

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

76 And the title is amended as follows:

77       Delete lines 16 - 17

78 and insert:

79       the agency to adopt specified rules; providing a  
80       contingent effective date.

By the Committee on Health Policy; and Senator Hutson

588-03097-20

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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.

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

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(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

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

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59 remain differentiated.

60 (g) "Nonembryonic stem cell bank" means a publicly or  
 61 privately owned establishment that does any of the following:

62 1. Collects and stores human nonembryonic stem cells for  
 63 use in a product or patient-specific medical administration.

64 2. Provides patient-specific health care services using  
 65 human nonembryonic stem cells.

66 3. Advertises human nonembryonic stem cell services,  
 67 including, but not limited to, collection, manufacturing,  
 68 storage, dispensing, use, or purported use of human nonembryonic  
 69 stem cells or products containing human nonembryonic stem cells,  
 70 which have not been approved by the United States Food and Drug  
 71 Administration or are not the subject of clinical trials  
 72 approved by the United States Food and Drug Administration and  
 73 which are intended to diagnose, cure, mitigate, treat, provide  
 74 therapy for, or prevent an injury or a disease.

75 4. Performs any procedure that is intended to:

76 a. Collect or store human nonembryonic stem cells for any  
 77 purpose; or

78 b. Diagnose, cure, mitigate, treat, provide therapy for, or  
 79 prevent an injury or a disease with the use or purported use of  
 80 human nonembryonic stem cells or any product containing human  
 81 nonembryonic stem cells which has not been approved by the  
 82 United States Food and Drug Administration or is not the subject  
 83 of a clinical trial approved by the United States Food and Drug  
 84 Administration.

85 5. Compounds human nonembryonic stem cells from human  
 86 nonembryonic cells or tissue into products by combining, mixing,  
 87 or altering the ingredients of one or more drugs or products to

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88 create another drug or product.

89 6. Manufactures, through recovery, processing,  
 90 manipulation, enzymatic digestion, mechanical disruption, or a  
 91 similar process, human nonembryonic stem cells from human  
 92 nonembryonic cells or tissue into undifferentiated human  
 93 nonembryonic stem cells, causing the cells to lose their  
 94 original structural function so that the nonembryonic stem cells  
 95 may be differentiated into specialized cell types.

96 7. Dispenses human nonembryonic stem cells and products  
 97 containing nonembryonic stem cells to any of the following for a  
 98 specific patient pursuant to a valid prescription from a  
 99 licensed health care practitioner authorized within the scope of  
 100 his or her license to prescribe and administer human  
 101 nonembryonic stem cells:

102 a. A pharmacy permitted under chapter 465.

103 b. A health care practitioner with privileges to practice  
 104 at nonembryonic stem cell banks.

105 c. A health care practitioner's office, a health care  
 106 facility, or a treatment setting where the health care  
 107 practitioner has privileges to practice, for office use.

108 (h) "Office use" means the provision and administration of  
 109 a drug, compounded drug, or compounded product to a patient by a  
 110 health care practitioner in the practitioner's office or in a  
 111 health care facility or treatment setting, including a hospital,  
 112 ambulatory surgery center, or health care clinic licensed under  
 113 chapter 395 or chapter 400. The term also includes the  
 114 dispensing by a pharmacist at a nonembryonic stem cell bank that  
 115 is also permitted as a pharmacy under chapter 465 to a  
 116 nonembryonic stem cell bank within this state of any of the

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117 following:118 1. Human nonembryonic stem cells.119 2. A compounded drug containing human nonembryonic stem  
120 cells.121 3. A compounded product containing nonembryonic stem cells.122 (2) DUTIES AND REGISTRATION.—A nonembryonic stem cell bank  
123 that advertises, collects, stores, manufactures, dispenses,  
124 compounds, uses, or purports to use nonembryonic stem cells or  
125 products containing nonembryonic stem cells is deemed a clinic  
126 as defined in s. 400.9905 and must comply with all of the  
127 following requirements:128 (a) Adhere to the applicable current good manufacturing  
129 practices for the collection, removal, manufacturing,  
130 processing, compounding, and implantation of nonembryonic stem  
131 cells or products containing nonembryonic stem cells pursuant to  
132 the federal act and 21 C.F.R., parts 1270-1271.133 (b) Obtain a health care clinic license from the agency  
134 pursuant to s. 400.991 and part II of chapter 408 and register  
135 each establishment separately, unless:136 1. The clinic is a facility licensed under chapter 395; or  
137 2. The clinic is affiliated with an accredited medical  
138 school that provides training to medical students, residents, or  
139 fellows.140 (c) Have a physician medical director who is responsible  
141 for complying with all requirements related to licensure,  
142 operation of a nonembryonic stem cell bank, and good  
143 manufacturing practices under this section, part X of chapter  
144 400, and the federal act and 21 C.F.R., parts 1270-1271.145 (d) Notify the agency in writing on a form approved by the

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146 agency within 10 days after termination of a physician medical  
147 director and notify the agency within 10 days after such  
148 termination of the identity of the physician medical director  
149 who has assumed responsibility for that nonembryonic stem cell  
150 bank. Failure to have a physician medical director practicing at  
151 the location of the licensed nonembryonic stem cell bank shall  
152 be the basis for a summary suspension of the nonembryonic stem  
153 cell bank's license pursuant to s. 400.607 or s. 120.60(6).154 (e) Require a physician medical director to have a full,  
155 active, and unencumbered license issued under chapter 458 or  
156 chapter 459 and to actively practice at the nonembryonic stem  
157 cell bank location for which he or she has assumed  
158 responsibility.159 (f) Maintain commercial and professional liability  
160 insurance in an amount not less than \$250,000 per claim.161 (g) Operate each establishment using the same name as the  
162 one used to obtain the health care clinic license from the  
163 agency. All invoices, packing slips, and other business records  
164 must list the same name.165 (h) Obtain a pharmacy permit for each person and  
166 establishment before dispensing, offering office use for the  
167 compounding of human nonembryonic stem cells, or dispensing a  
168 compounded product for office use.169 (i) Pay all costs associated with licensure, registration,  
170 and inspection.171 (3) DISPENSING OF DRUGS OR COMPOUNDED DRUGS OR PRODUCTS.—172 (a) A pharmacist at a nonembryonic stem cell bank that is  
173 also permitted as a pharmacy under chapter 465 may dispense any  
174 of the following to a stem cell bank within the state, for

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175 office use:176 1. Human nonembryonic stem cells;177 2. A compounded drug containing human nonembryonic stem  
178 cells; or179 3. A compounded product containing human nonembryonic stem  
180 cells.181 (b) Human nonembryonic stem cells, compounded drugs  
182 containing human nonembryonic stem cells, or products containing  
183 human nonembryonic stem cells may not be sold or dispensed by  
184 any person or establishment other than the nonembryonic stem  
185 cell bank or pharmacist at the nonembryonic stem cell bank that  
186 manufactured the human nonembryonic stem cells or the compounded  
187 drug or product containing human nonembryonic stem cells, except  
188 that:189 1. A health care practitioner who requests the dispensing  
190 of the human nonembryonic stem cells, compounded drug, or  
191 compounded product from the manufacturing nonembryonic stem cell  
192 bank may sell or dispense such items to his or her patient if  
193 the health care practitioner is authorized within the scope of  
194 his or her license to prescribe and administer human  
195 nonembryonic stem cells; or196 2. A pharmacist, pharmacy, or establishment that requests  
197 the dispensing of the human nonembryonic stem cells, compounded  
198 drug, or compounded product from the manufacturing nonembryonic  
199 stem cell bank may sell or dispense such items to a health care  
200 practitioner who is authorized within the scope of his or her  
201 license to prescribe and administer human nonembryonic stem  
202 cells to patients.203 (4) HEALTH CARE PRACTITIONER RESPONSIBILITIES.—

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204 (a) A physician licensed under chapter 458 or chapter 459,  
205 an advanced practice registered nurse licensed under chapter  
206 464, or a physician assistant licensed under chapter 458 or  
207 chapter 459 may not practice in a nonembryonic stem cell bank  
208 that is not licensed with the agency as required by the rules  
209 adopted pursuant to s. 400.9925. The license of a health care  
210 practitioner who violates this paragraph is subject to  
211 disciplinary action by the appropriate regulatory board.212 (b) In the performance of any procedure collecting,  
213 storing, using, or purporting to use nonembryonic stem cells or  
214 products containing nonembryonic stem cells, a health care  
215 practitioner must adhere to the applicable current good  
216 manufacturing practices for the collection, removal,  
217 manufacturing, processing, compounding, and implantation of stem  
218 cells or products containing stem cells pursuant to the federal  
219 act and 21 C.F.R., parts 1270-1271.220 (5) RULEMAKING.—The agency shall adopt rules necessary to  
221 administer the licensure and regulation of nonembryonic stem  
222 cell banks, including, but not limited to, rules regarding all  
223 of the following, which must be consistent with the best  
224 practices specified in the federal act and 21 C.F.R., parts  
225 1270-1271:226 (a) Advertising.227 (b) Nonembryonic stem cell bank procedures and protocols  
228 for the collection, manufacturing, storing, dispensing, and use  
229 of nonembryonic stem cells, drugs containing nonembryonic stem  
230 cells, and products containing nonembryonic stem cells in  
231 accordance with the applicable current best practices.232 (c) Adverse incident reporting.

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233     (d) Informed consent.  
234     (e) Recordkeeping, record retention, and availability of  
235 records for inspection.  
236     Section 2. This act shall take effect July 1, 2020.



# 2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

<u>BILL INFORMATION</u>	
<b>BILL NUMBER:</b>	SB 512
<b>BILL TITLE:</b>	Nonembryonic Stem Cells
<b>BILL SPONSOR:</b>	Senator Travis Hutson
<b>EFFECTIVE DATE:</b>	July 1, 2020

<u>COMMITTEES OF REFERENCE</u>
1) Health Policy
2) Appropriations
3) Rules
4)
5)

<u>CURRENT COMMITTEE</u>
Health Policy

<u>SIMILAR BILLS</u>	
<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A

<u>PREVIOUS LEGISLATION</u>	
<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A
<b>YEAR:</b>	N/A
<b>LAST ACTION:</b>	N/A

<u>IDENTICAL BILLS</u>	
<b>BILL NUMBER:</b>	HB 313
<b>SPONSOR:</b>	Representative Byron Donalds

<b>Is this bill part of an agency package?</b>
Y ___ N ___ X_

<u>BILL ANALYSIS INFORMATION</u>	
<b>DATE OF ANALYSIS:</b>	
<b>LEAD AGENCY ANALYST:</b>	Jack Plagge, Ruby Grantham, Noel Lawrence
<b>ADDITIONAL ANALYST(S):</b>	Ferronda Burke, Jessica Munn
<b>LEGAL ANALYST:</b>	
<b>FISCAL ANALYST:</b>	



## 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.<sup>1</sup>

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.<sup>2,3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

<sup>1</sup> 21 C.F.R. 1271.3(d).

<sup>2</sup> <https://www.mayoclinic.org/tests-procedures/autologous-stem-cell-transplant/pyc-20384859>

<sup>3</sup> <https://www.mayoclinic.org/tests-procedures/allogeneic-stem-cell-transplant/pyc-20384863>

<sup>4</sup> 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

<sup>5</sup> 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:<sup>6</sup>

- 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

Stem cells for clinical use are currently procured from living donors only, limiting the number of available products.<sup>10</sup> 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.<sup>11</sup>

### **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.],

<sup>6</sup> 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

<sup>7</sup> 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

<sup>8</sup> 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

<sup>9</sup> 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

<sup>10</sup> 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

<sup>11</sup> 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<sup>12</sup>, F.S. contains provisions for the donation and procurement of human organs and tissues. Procurement is defined in section 765.511<sup>13</sup>, 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

- 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.

<b>NSCB Licensure Requirements</b>	<b>Current Health Care Clinic Requirement</b>
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 <input checked="" type="checkbox"/> 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

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**FISCAL ANALYSIS**

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**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
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**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:	<p>Application processing: The Agency assigned 5 FTE (Health Services &amp; 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.</p> <p>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).</p>
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:**

<b>Expenditures:</b>				
<b>Expense (Agency Standard Expense Package)</b>				
Professional Staff	3.00	@	\$ 4,171	\$ 12,513
Support Staff	0.00	@	3,741	-
<b>Total Non-Recurring Expense</b>	<b>3.00</b>			<b>\$ 12,513</b>
<b>Operating Capital Outlay (Agency Standard Operating Capital Outlay Package)</b>				
Microsoft Surface Pro 7, case, keyboard, pen, portable printer	2	@	\$ 1,365	\$ 2,730
-	-	@	-	-

<b>Total Operating Capital Outlay</b>	<b>\$ 2,730</b>
<b>Total Non-Recurring Expenditures</b>	<b>\$ 15,243</b>

**Recurring Impact:**

**Revenues:**

License Application Fee for 500 Facilities (\$2,000/facility)	\$ 500,000	500,000	\$ 500,000
-	-	-	-
-	-	-	-
-	-	-	-
<b>Total Recurring Revenues</b>	<b>\$ 500,000</b>	<b>500,000</b>	<b>\$ 500,000</b>

**Expenditures:**

<b>Salaries</b>	<b>Class Code</b>	<b>FTEs</b>	<b>Pay Grade</b>	<b>Rate</b>				
Health Services & Facility Consultant	5894	1.00	24	41,106	\$ 59,351	59,351	59,351	\$ 59,351
Health Facility Evaluator II	5620	1.00	21	34,634	50,007	50,007	50,007	50,007
Health Facility Evaluator II	5620	1.00	21	35,595	51,394	51,394	51,394	51,394
-				-	-	-	-	-
-				-	-	-	-	-
-				-	-	-	-	-
-				-	-	-	-	-
-				-	-	-	-	-
-				-	-	-	-	-
<b>Total Salary and Benefits</b>		<b>3.00</b>		<b>111,335</b>	<b>\$ 160,751</b>	<b>160,751</b>	<b>160,751</b>	<b>\$ 160,751</b>
<b>OPS</b>		<b>FTEs</b>						
-		0.00			\$ -	-	-	\$ -
-		0.00			-	-	-	-
-		0.00			-	-	-	-
-		0.00			-	-	-	-
<b>Total OPS</b>		<b>0.00</b>			<b>\$ -</b>	<b>-</b>	<b>-</b>	<b>\$ -</b>
<b>Expenses</b>								
Professional Staff		3.00	@	\$ 6,004	\$ 18,012	18,012	18,012	\$ 18,012
Support Staff		0.00	@	5,107	-	-	-	-
Surveyor Travel					20,000	20,000	20,000	20,000
-					-	-	-	-
-					-	-	-	-
<b>Total Expenses</b>					<b>\$ 38,012</b>	<b>38,012</b>	<b>38,012</b>	<b>\$ 38,012</b>
<b>Human Resources Services</b>								
FTE Positions		3.00	@	\$ 329	\$ 987	987	987	\$ 987



OPS Positions	0.00	@	107	-	-	-
<b>Total Human Resources Services</b>				\$ 987	\$ 987	\$ 987
<b>Special Categories/Contracted Services</b>					\$	\$
-				\$ -	-	-
-				-	-	-
-				-	-	-
-				-	-	-
-				-	-	-
-				-	-	-
-				-	-	-
<b>Total Special Categories/Contracted Services</b>				\$ -	\$ -	\$ -
<b>Total Recurring Expenditures</b>				\$ 199,750	\$ 199,750	\$ 199,750

<b>Total Revenues and Expenditures:</b>						
Sub-Total Recurring Revenues				\$ 500,000	\$ 500,000	\$ 500,000
<b>Total Revenues</b>				\$ 500,000	\$ 500,000	\$ 500,000
Sub-Total Non-Recurring Expenditures				\$ 15,243	\$ -	\$ -
Sub-Total Recurring Expenditures				199,750	199,750	199,750
<b>Total Expenditures</b>				\$ 214,993	\$ 199,750	\$ 199,750
<b>Net Impact (Total Revenues minus Total Expenditures)</b>				\$ 285,007	\$ 300,250	\$ 300,250

<b>Net Impact (By Fund)</b>						
Health Care Trust Fund (2003)				\$ 285,007	\$ 300,250	\$ 300,250
-				-	-	-
-				-	-	-
-				-	-	-
<b>Net Impact (By Fund)</b>				\$ 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.
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**FEDERAL IMPACT**

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**1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y  N**

If yes, describe the anticipated impact including any fiscal impact.	NA
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**ADDITIONAL COMMENTS**

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<p>Recommend licensure as a tissue bank instead of a health care clinic.</p> <p>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.</p>
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**LEGAL – GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments:	
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The Florida Senate

## Committee Agenda Request

**To:** Senator Rob Bradley, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** February 6, 2020

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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.

A handwritten signature in black ink that reads "Travis Hutson".

---

Senator Travis Hutson  
Florida Senate, District 7

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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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.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<u>Recommend: Favorable</u>
3.	<u>Dale</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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,<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

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;<sup>4</sup>
- 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;<sup>5</sup>

<sup>1</sup> “Criminal history record” means any nonjudicial record maintained by a criminal justice agency containing criminal history information. Section 943.045(6), F.S.

<sup>2</sup> 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.

<sup>3</sup> Section 985.04(1)(b), F.S.

<sup>4</sup> 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.

<sup>5</sup> 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.<sup>6</sup>

In these instances, the criminal history information<sup>7</sup> 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.<sup>8</sup>

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.<sup>9</sup>

### **Juvenile Diversion Program Expunction**

The exceptions to accessibility of a criminal history record do not apply if the record has been sealed<sup>10</sup> or expunged.<sup>11</sup> 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.<sup>12</sup> The following are authorized expungement processes for the criminal history record of a juvenile:

- Juvenile diversion;<sup>13</sup>
- Automatic juvenile;<sup>14</sup> and

<sup>6</sup> Section 985.04, F.S.

<sup>7</sup> "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.

<sup>8</sup> Section 943.053(3)(c)1.a.-d., F.S.

<sup>9</sup> Section 985.04(7)(b), F.S.

<sup>10</sup> "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.

<sup>11</sup> Section 943.053(3)(b), F.S.

<sup>12</sup> 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.

<sup>13</sup> Section 943.0582, F.S.

<sup>14</sup> Section 943.0515, F.S.

- Early juvenile.<sup>15</sup>

Diversion refers to a program that is designed to keep a juvenile from entering the juvenile justice system through the legal process.<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup>

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.<sup>19</sup>

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<sup>15</sup> Section 943.0515(1)(b)2., F.S.

<sup>16</sup> Florida Department of Juvenile Justice, *Glossary*, available at <http://www.djj.state.fl.us/youth-families/glossary> (last accessed January 17, 2020).

<sup>17</sup> 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](http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf) (last accessed January 17, 2020).

<sup>18</sup> 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).

<sup>19</sup> 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.<sup>20</sup>

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.<sup>21</sup> 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<sup>22</sup> for one of the purposes stated above.<sup>23</sup>

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,<sup>24</sup> court ordered expunction,<sup>25</sup> or court ordered sealing,<sup>26</sup> if the juvenile is otherwise eligible for relief under those sections.<sup>27</sup>

### 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.

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<sup>20</sup> Section 943.0582(3), F.S.

<sup>21</sup> Section 943.0582(2)(b), F.S.

<sup>22</sup> “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.

<sup>23</sup> Section 985.126(5), F.S.

<sup>24</sup> Section 943.0583, F.S.

<sup>25</sup> Section 943.0585, F.S.

<sup>26</sup> Section 943.059, F.S.

<sup>27</sup> 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.<sup>28</sup> 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.

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<sup>28</sup> 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	.	
	.	
	.	
	.	

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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:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10



439690

11

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

1 A bill to be entitled  
2 An act relating to juvenile diversion program  
3 expunction; amending s. 943.0582, F.S.; deleting a  
4 requirement that limits diversion program expunction  
5 to programs for misdemeanor offenses; amending s.  
6 985.126, F.S.; conforming a provision to changes made  
7 by the act; providing a contingent effective date.  
8  
9 Be It Enacted by the Legislature of the State of Florida:  
10  
11 Section 1. Subsection (1) and paragraph (b) of subsection  
12 (3) of section 943.0582, Florida Statutes, are amended to read:  
13 943.0582 Diversion program expunction.—  
14 (1) Notwithstanding any law dealing generally with the  
15 preservation and destruction of public records, the department  
16 shall adopt rules to provide for the expunction of a nonjudicial  
17 record of the arrest of a minor who has successfully completed a  
18 diversion program ~~for a misdemeanor offense~~.  
19 (3) The department shall expunge the nonjudicial arrest  
20 record of a minor who has successfully completed a diversion  
21 program if that minor:  
22 (b) Submits to the department, with the application, an  
23 official written statement from the state attorney for the  
24 county in which the arrest occurred certifying that he or she  
25 has successfully completed that county's diversion program, ~~that~~  
26 ~~his or her participation in the program was based on an arrest~~  
27 ~~for a misdemeanor~~, and that he or she has not otherwise been  
28 charged by the state attorney with, or found to have committed,  
29 any criminal offense or comparable ordinance violation.

Page 1 of 2

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

591-02252-20

2020700c1

30 Section 2. Subsection (5) of section 985.126, Florida  
31 Statutes, is amended to read:  
32 985.126 Diversion programs; data collection; denial of  
33 participation or expunged record.—  
34 (5) A minor who successfully completes a diversion program  
35 ~~for a first-time misdemeanor offense~~ may lawfully deny or fail  
36 to acknowledge his or her participation in the program and an  
37 expunction of a nonjudicial arrest record under s. 943.0582,  
38 unless the inquiry is made by a criminal justice agency, as  
39 defined in s. 943.045, for a purpose described in s.  
40 943.0582(2)(b)1.  
41 Section 3. This act shall take effect on the same date that  
42 SB 1292 or similar legislation takes effect, if such legislation  
43 is adopted in the same legislative session or an extension  
44 thereof and becomes law.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Rob Bradley, Chair  
Committee on Appropriations

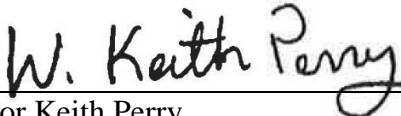
**Subject:** Committee Agenda Request

**Date:** January 29, 2020

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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.

  
\_\_\_\_\_  
Senator Keith Perry  
Florida Senate, District 8

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

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

Phone 352-377-0567

*Street*

Gainesville

Florida

32601

Email \_\_\_\_\_

*City*

*State*

*Zip*

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 Juvenile Diversion Program

Amendment Barcode (if applicable)

Name Candice K Brower

Job Title Regional Counsel, Region 1

Address 227 N. Bronough Street

Phone 352 681 0243

Street

Tallahassee

FL

32301

Email \_\_\_\_\_

City

State

Zip

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

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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 0700

*Bill Number (if applicable)*

Topic Juvenile Diversion Program

*Amendment Barcode (if applicable)*

Name Kristina Wiggins

Job Title Executive Director

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Phone 850-488-6850

*Street*

Tallahassee

FL

32301

Email kwiggins@flpda.org

*City*

*State*

*Zip*

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.*

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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 0700

*Bill Number (if applicable)*

Topic Juvenile Diversion Program

*Amendment Barcode (if applicable)*

Name Kristina Wiggins

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Address 103 North Gadsden St

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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.*

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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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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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. <u>Paglialonga/Rogers</u>	<u>Ryon</u>	<u>CA</u>	<b>Fav/CS</b>
2. <u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<b>Recommend: Fav/CS</b>
3. <u>Reagan</u>	<u>Kynoch</u>	<u>AP</u>	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup> 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:

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<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

### *Blue-Green Algae Task Force*

In January of 2019, Governor DeSantis issued the comprehensive Executive Order Number 19-12.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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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<sup>2</sup> U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Dec. 2, 2019).

<sup>3</sup> EPA, *The Problem*, <https://www.epa.gov/nutrientpollution/problem> (last visited Dec. 2, 2019).

<sup>4</sup> 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](https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf).

<sup>5</sup> *Id.* at 2; DEP, *Blue-Green Algae Task Force*, <https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force> (last visited Dec. 2, 2019).

<sup>6</sup> 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](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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

## Basin Management Action Plans and Best Management Practices

The DEP is the lead agency in coordinating the development and implementation of TMDLs.<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup> 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

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<sup>7</sup> 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).

<sup>8</sup> Section 403.067(1), F.S.

<sup>9</sup> Section 403.031(21), F.S.

<sup>10</sup> 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.

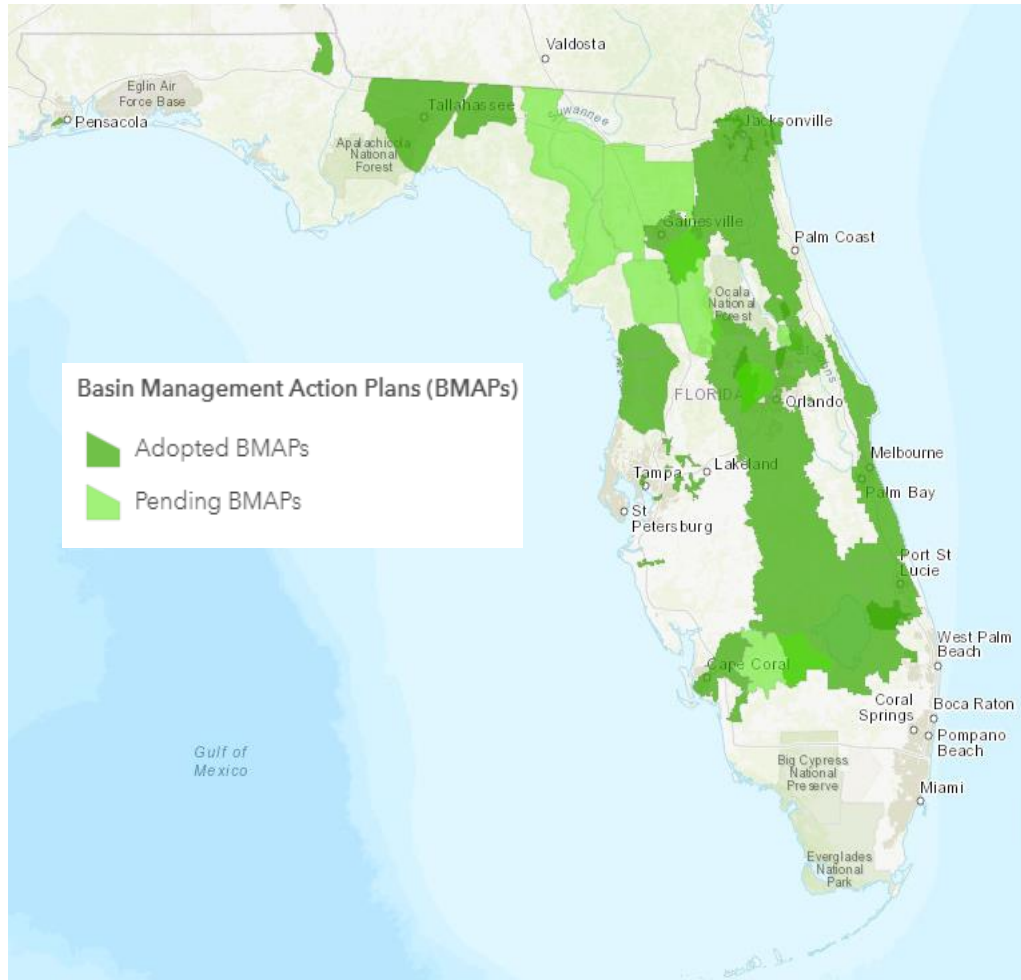
<sup>11</sup> Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

<sup>12</sup> Section 403.067(7), F.S.

<sup>13</sup> *Id.*

collectively determine and share water quality cleanup responsibilities collectively.<sup>14</sup> BMAPs are adopted by secretarial order.<sup>15</sup>

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.<sup>16</sup>



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.<sup>17</sup> 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

<sup>14</sup> DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Dec. 4, 2019).

<sup>15</sup> Section 403.067(7)(a)5., F.S.

<sup>16</sup> Section 403.067(7)(a)6., F.S.

<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

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.<sup>20</sup>

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.<sup>21</sup>

### ***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.<sup>22</sup> BMPs are implemented by the Department of Agriculture and Consumer Services (DACS). Since the BMP program was implemented in 1999,<sup>23</sup> 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.<sup>24</sup> Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs<sup>25</sup> 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

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<sup>18</sup> Section 403.067(7)(b)2.h., F.S.

<sup>19</sup> DEP, *NPDES Stormwater Program*, <https://floridadep.gov/Water/Stormwater> (last visited Dec. 2, 2019).

<sup>20</sup> 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).

<sup>21</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>22</sup> 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).

<sup>23</sup> 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.

<sup>24</sup> 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).

<sup>25</sup> 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.<sup>26</sup> Within a BMAP, management strategies, including BMPs and water quality monitoring, are enforceable.<sup>27</sup> 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,<sup>28</sup> conducts research to issue recommendations for improving BMPs,<sup>29</sup> and issues training certificates for BMPs that require licenses such as Green Industry BMPs.<sup>30</sup>

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.<sup>31</sup>

### **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.<sup>32</sup> 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;<sup>33</sup>
- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan<sup>34</sup> 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;<sup>35</sup> and

<sup>26</sup> 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).

<sup>27</sup> Section 403.067(7)(d), F.S.

<sup>28</sup> UF/IFAS, *BMP Resource*, available at <https://bmp.ifas.ufl.edu/> (last visited Dec. 5, 2019).

<sup>29</sup> 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).

<sup>30</sup> UF/IFAS Florida-Friendly Landscaping, *GI-BMP Training Program Overview*, available at [https://ffl.ifas.ufl.edu/professionals/BMP\\_overview.htm](https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm) (last visited Dec. 5, 2019).

<sup>31</sup> *Id.*

<sup>32</sup> 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.

<sup>33</sup> Section 373.802(5), F.S.

<sup>34</sup> Commonly called a "septic remediation plan."

<sup>35</sup> 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.<sup>36</sup>

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.<sup>37</sup> The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.<sup>38</sup>

In June 2018, the DEP adopted 13 BMAPs, addressing all 24 nitrogen-impaired OFS.<sup>39</sup> Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAPs.<sup>40</sup> 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.<sup>41</sup>

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.<sup>42</sup> 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.<sup>43</sup>

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

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<sup>36</sup> Section 373.811, F.S.

<sup>37</sup> Section 373.807(3), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> DEP, *Springs*, <https://floridadep.gov/springs> (last visited Nov. 26, 2019).

<sup>40</sup> *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.

<sup>41</sup> 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).

<sup>42</sup> Section 403.087, F.S.

<sup>43</sup> DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Dec. 2, 2019).

Pollution Discharge Elimination System (NPDES) permit.<sup>44</sup> 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.<sup>45</sup> 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.<sup>46</sup>

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.<sup>47</sup> 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.<sup>48</sup>

**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.<sup>49</sup> 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.<sup>50</sup> The standard also requires high-level disinfection.<sup>51</sup>

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.<sup>52</sup> 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

<sup>44</sup> 33 U.S.C. s. 1342.

<sup>45</sup> Sections 403.061 and 403.087, F.S.

<sup>46</sup> Section 403.087(3), F.S.

<sup>47</sup> 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](https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf).

<sup>48</sup> *Id.*

<sup>49</sup> Section 403.086(2), F.S.

<sup>50</sup> Section 403.086(4), F.S.

<sup>51</sup> Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).

<sup>52</sup> 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.<sup>53</sup>

### ***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.<sup>54</sup> 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.<sup>55</sup> Each day during the period in which a violation occurs constitutes a separate offense.<sup>56</sup> However, administrative penalties are capped at \$10,000.<sup>57</sup>

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.<sup>58</sup>

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.<sup>59</sup>

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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<sup>53</sup> 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](https://pubs.usgs.gov/circ/1348/pdf/Chapter%205_105-156.pdf) (internal citations omitted).

<sup>54</sup> DEP, *Sanitary Sewer Overflows (SSOs)*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Dec. 4, 2019).

<sup>55</sup> Sections 403.121 and 403.141, F.S.

<sup>56</sup> *Id.*

<sup>57</sup> Section 403.121(2)(b),(8), and (9), F.S.

<sup>58</sup> DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf>.

<sup>59</sup> *Id.*

wastewater.<sup>60</sup> 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.<sup>61</sup> 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.<sup>62</sup> 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.<sup>63</sup> Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.<sup>64</sup> All other pump stations must have emergency pumping capability through one of three specified arrangements.<sup>65</sup> 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.<sup>66</sup>

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.<sup>67</sup>

### ***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.<sup>68</sup> 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.<sup>69</sup>

<sup>60</sup> City of St. Augustine, *Inflow & Infiltration Elimination Program*, <https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program> (last visited Dec. 6, 2019).

<sup>61</sup> 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%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001\\_06\\_17.pdf](https://floridadep.gov/sites/default/files/Final%20Report%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf).

<sup>62</sup> 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.”

<sup>63</sup> 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%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001\\_06\\_17.pdf](https://floridadep.gov/sites/default/files/Final%20Report%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf).

<sup>64</sup> Fla. Admin. Code R. 62-604.400.

<sup>65</sup> *Id.*

<sup>66</sup> Fla. Admin. Code R. 62-604.100.

<sup>67</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>68</sup> 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).

<sup>69</sup> *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.<sup>70</sup> 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.<sup>71</sup> The United States Environmental Protection Agency (EPA) provides guidance and reference manuals for utilities to aid in developing asset management plans.<sup>72</sup>

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.<sup>73</sup> Florida's incentives include priority scoring,<sup>74</sup> reduction of interest rates,<sup>75</sup> principal forgiveness for financially disadvantaged small communities,<sup>76</sup> and eligibility for small community wastewater facilities grants.<sup>77</sup>

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.<sup>78</sup> 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.<sup>79</sup>

### **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.<sup>80</sup> The CWSRF is funded through money received from

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<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> 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](https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf).

<sup>73</sup> 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](https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf).

<sup>74</sup> Fla. Admin. Code R. 62-503.300(e).

<sup>75</sup> Fla. Admin. Code R. 62-503.300(5)(b)1. and 62-503.700(7).

<sup>76</sup> Fla. Admin. Code R. 62-503.500(4).

<sup>77</sup> Fla. Admin. Code R. 62-505.300(d) and 62-505.350(5)(c).

<sup>78</sup> Fla. Admin. Code R. 25-30.444.

<sup>79</sup> Fla. Admin. Code R. 25-30.444(2)(e) and (m).

<sup>80</sup> 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.<sup>81</sup> 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.<sup>82</sup>

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.;

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<sup>81</sup> DEP, *State Revolving Fund*, <https://floridadep.gov/wra/srf> (last visited Feb. 11, 2019).

<sup>82</sup> 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.<sup>83</sup>

### **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.<sup>84</sup> Under the program, a financially disadvantaged small community is defined as a county, municipality, or special district<sup>85</sup> with a total population of 10,000 or less, and a per capita income less than the state average per capita income.<sup>86</sup> 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.<sup>87</sup>

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.<sup>88</sup> 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, permissible, 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.<sup>89</sup>

<sup>83</sup> Section 403.1835(7), F.S.

<sup>84</sup> Sections 403.1835(3)(d) and 403.1838, F.S.

<sup>85</sup> 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.

<sup>86</sup> Section 403.1838(2), F.S.

<sup>87</sup> Chapter 2016-55, Laws of Fla.

<sup>88</sup> Section 403.1838(3)(a), F.S.

<sup>89</sup> 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.<sup>90</sup> 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.<sup>91</sup>



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.<sup>92</sup> The DOH regulations focus on construction standards and setback distances. The regulations are primarily designed to protect the public from waterborne illnesses.<sup>93</sup> 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.<sup>94</sup>

The DOH and the DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.<sup>95</sup> The DEP has jurisdiction

<sup>90</sup> 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).

<sup>91</sup> *Id.*

<sup>92</sup> Section 381.0065(3), F.S.

<sup>93</sup> DOH, *Overview of Onsite Sewage Treatment and Disposal Systems*, 5 (Aug. 1, 2019), <http://floridadep.gov/file/19018/download?token=6r94Bi2B>.

<sup>94</sup> Section 381.0065(3), F.S.

<sup>95</sup> *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](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).<sup>96</sup> 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.<sup>97</sup> In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.<sup>98</sup> 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.<sup>99</sup> The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.<sup>100</sup>

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.<sup>101</sup> This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.<sup>102</sup>

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).<sup>103</sup> The DOH publishes on its website approved products and resources on advanced systems.<sup>104</sup> 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.<sup>105</sup> Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.<sup>106</sup>

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<sup>96</sup> *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).

<sup>97</sup> DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Dec. 2, 2019).

<sup>98</sup> 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.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> 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).

<sup>102</sup> 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/pdf/SS/SS55000.pdf>.

<sup>103</sup> 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>.

<sup>104</sup> 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).

<sup>105</sup> Section 381.00655, F.S.

<sup>106</sup> *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.<sup>107</sup>

***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.<sup>108</sup> 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.<sup>109</sup>

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.<sup>110</sup>

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<sup>107</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>108</sup> Section 381.0068, F.S.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

## Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.<sup>111</sup> 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.<sup>112</sup> Stormwater pollution is a major source of water pollution in Florida.<sup>113</sup>

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<sup>114</sup> and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.<sup>115</sup> The federal NPDES Stormwater Program regulates the following types of stormwater pollution:<sup>116</sup>

- Certain municipal storm sewer systems;
- Runoff from certain construction activities; and
- Runoff from industrial activities.<sup>117</sup>

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.<sup>118</sup> ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.<sup>119</sup> 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.<sup>120</sup>

<sup>111</sup> 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.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant\\_Hanbook\\_I\\_-\\_Combined.pdf](https://www.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf).

<sup>112</sup> DEP, *Stormwater Management*, 1 (2016), available at [https://floridadep.gov/sites/default/files/stormwater-management\\_0.pdf](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.

<sup>113</sup> 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>.

<sup>114</sup> National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.

<sup>115</sup> Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

<sup>116</sup> 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](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>.

<sup>117</sup> See generally EPA, *NPDES Stormwater Program*, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Dec. 2, 2019).

<sup>118</sup> DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Dec 2, 2019).

<sup>119</sup> 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).

<sup>120</sup> 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.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant\\_Hanbook\\_I\\_-\\_Combined.pdf](https://www.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.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;<sup>121</sup> and
- For the maintenance or operation of such structures.<sup>122</sup>

The DEP's stormwater rules are technology-based effluent limitations rather than water quality-based effluent limitations.<sup>123</sup> 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.<sup>124</sup> 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.<sup>125</sup> 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.<sup>126</sup> The images shown here depict six major types of surface water management systems:<sup>127</sup>

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<sup>121</sup> Section 373.413, F.S.; *see s. 403.814(12)*, F.S.

<sup>122</sup> Section 373.416, F.S.

<sup>123</sup> DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Nov. 8, 2019).

<sup>124</sup> See generally, EPA, National Pollutant Discharge Elimination System (NPDES), [www.epa.gov/npdes/npdes-permit-limits](http://www.epa.gov/npdes/npdes-permit-limits) (last visited Dec. 2, 2019).

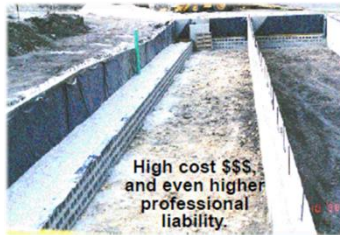
<sup>125</sup> Fla. Admin. Code R. 62-40.432(2).

<sup>126</sup> 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.

<sup>127</sup> 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.<sup>128</sup> 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.<sup>129</sup> 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.<sup>130</sup> 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.<sup>131</sup>

<sup>128</sup> 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.

<sup>129</sup> 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”).

<sup>130</sup> Section 373.4131(3)(c), F.S.

<sup>131</sup> 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.<sup>132</sup> 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.<sup>133</sup> 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."<sup>134</sup>

These rulemaking efforts produced a draft document called the "Environmental Resource Permit Stormwater Quality Applicant's Handbook: Design Requirements for Stormwater Treatment in Florida."<sup>135</sup> The 2010 draft handbook's stormwater quality permitting requirements:

- Provided for different stormwater treatment performance standards based on various classifications of water quality.<sup>136</sup>
- Included instructions for calculating a project's required nutrient load reduction based on comparing the predevelopment and post-development loadings.<sup>137</sup>
- Provided the required criteria for stormwater BMPs.
- Listed fifteen different types of stormwater treatment systems, including low impact design, pervious pavements, and stormwater harvesting.<sup>138</sup>

The new rule and revised handbook were expected to be adopted in 2011.<sup>139</sup> 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.<sup>140</sup>

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<sup>132</sup> 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](https://www.sfwmd.gov/sites/default/files/documents/spl_stormwater_rule.pdf).

<sup>133</sup> 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>.

<sup>134</sup> *Id.*

<sup>135</sup> 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](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content2/roadway/drainage/files/stormwaterqualityapphb-draft.pdf?sfvrsn=579bf184_0).

<sup>136</sup> *Id.* at 6-7.

<sup>137</sup> *Id.* at 8-11.

<sup>138</sup> *Id.* at 3.

<sup>139</sup> 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).

<sup>140</sup> 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](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.<sup>141</sup>

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.<sup>142</sup> 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.<sup>143</sup>

## Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary<sup>144</sup> that runs along 156 miles of Florida's east coast and borders Volusia, Brevard, Indian River, St. Lucie, and Martin counties.<sup>145</sup> The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.<sup>146</sup> Four BMAPs have been adopted for the IRL region.<sup>147</sup>

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.<sup>148</sup> The estimated economic value received from the IRL in 2014 was

<sup>141</sup> DEP, *Water Quality Assessment Program*, <https://floridadep.gov/dear/water-quality-assessment> (last visited Dec. 2, 2019).

<sup>142</sup> DEP, *Watershed Monitoring*, <https://floridadep.gov/dear/watershed-monitoring-section> (last visited Dec. 2, 2019).

<sup>143</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>144</sup> 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).

<sup>145</sup> IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

<sup>146</sup> *Id.*

<sup>147</sup> 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](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).

<sup>148</sup> IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

approximately \$7.6 billion.<sup>149</sup> Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.<sup>150</sup>

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.<sup>151</sup> 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.<sup>152</sup>

### **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.<sup>153</sup>

### **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.<sup>154</sup> 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.<sup>155</sup>

The currently designated RAOs are:<sup>156</sup>

- Northwestern RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and part of Walton County.

<sup>149</sup> 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](http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf).

<sup>150</sup> *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.

<sup>151</sup> 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>.

<sup>152</sup> *Id.*

<sup>153</sup> Section 20.06(2), F.S.

<sup>154</sup> Section 288.0656(2)(d), F.S.

<sup>155</sup> Section 288.0656(7), F.S.

<sup>156</sup> 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).<sup>157</sup> 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.<sup>158</sup>

### Biosolids

Approximately two-thirds of Florida's population is served by around 2,000 domestic wastewater facilities permitted by the DEP.<sup>159</sup> When domestic wastewater is treated, solid, semisolid, or liquid residue known as biosolids<sup>160</sup> accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.<sup>161</sup> Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the DEP.<sup>162</sup> The collected residue is high in organic content and contains moderate amounts of nutrients.<sup>163</sup>

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.<sup>164</sup> 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

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<sup>157</sup> Section 120.541, F.S.

<sup>158</sup> *Id.*

<sup>159</sup> 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).

<sup>160</sup> 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.

<sup>161</sup> DEP, *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Dec. 9, 2019).

<sup>162</sup> Fla. Admin. Code R. 62-640.200(6).

<sup>163</sup> *Id.*

<sup>164</sup> 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](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.<sup>165</sup> About one-third of the total amount of biosolids produced is used for land application<sup>166</sup> and is subject to regulatory requirements established by the DEP to protect public health and the environment.<sup>167</sup>

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.<sup>168</sup> 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.<sup>169</sup> 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.<sup>170</sup> There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.<sup>171</sup>

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<sup>165</sup> *Id.* at 4.

<sup>166</sup> *Id.* at 5.

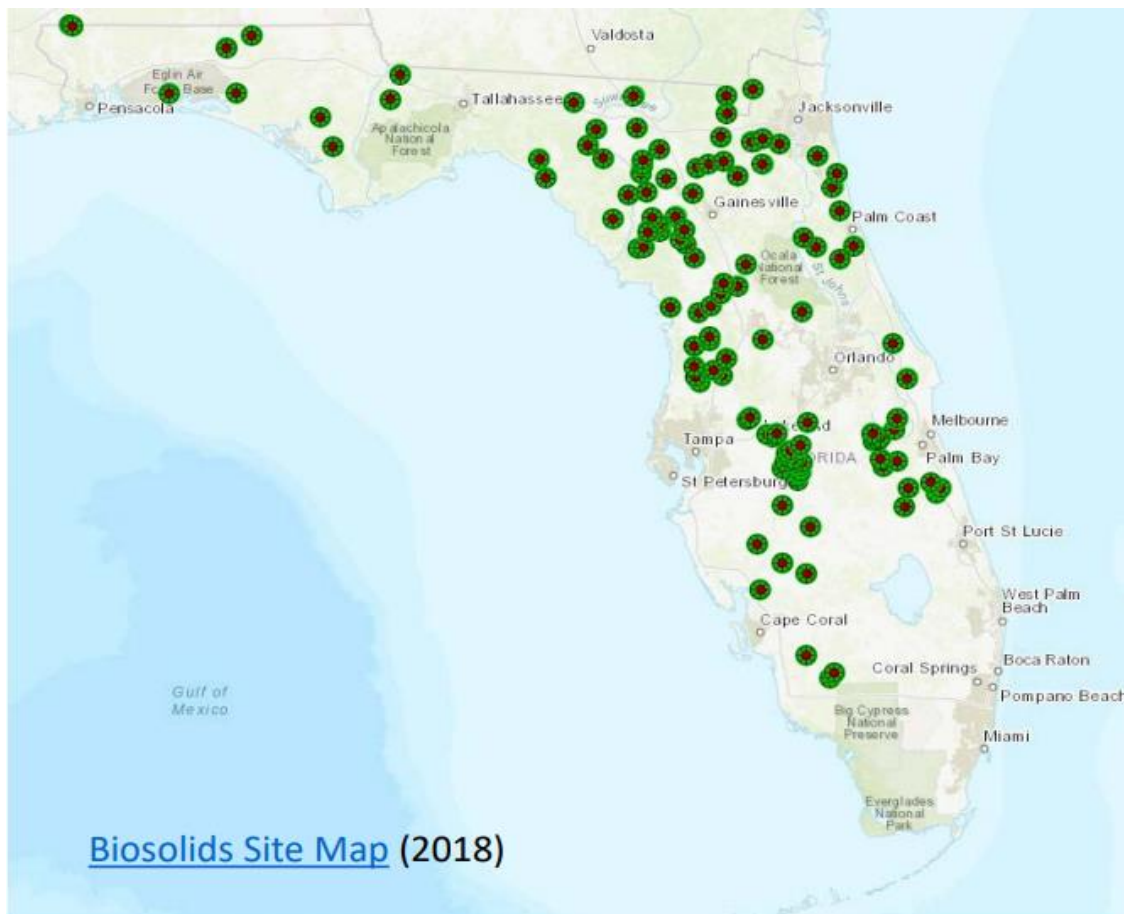
<sup>167</sup> Fla. Admin. Code R. 62-640.

<sup>168</sup> 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).

<sup>169</sup> *Id.* at 20.

<sup>170</sup> *Id.* at 9.

<sup>171</sup> 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](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.<sup>172</sup>

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.<sup>173</sup>

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.<sup>174</sup> Typically, Class B biosolids are used in land application.<sup>175</sup>

<sup>172</sup> *Id.* at 6.

<sup>173</sup> *Id.* at 7.

<sup>174</sup> *Id.* at 8.

<sup>175</sup> *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, applicers, and distributors<sup>176</sup> and include permit requirements for both treatment facilities and biosolids application sites.<sup>177</sup>

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.<sup>178</sup> Biosolids may only be applied to land application sites that are permitted by the DEP and have a valid NMP.<sup>179</sup> 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.<sup>180</sup> 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.<sup>181</sup>

Once a facility or site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.<sup>182</sup> 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.<sup>183</sup>

### ***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.<sup>184</sup> 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.<sup>185</sup>

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<sup>176</sup> Fla. Admin. Code R. 62-640.100.

<sup>177</sup> Fla. Admin. Code R. 62-640.300.

<sup>178</sup> Fla. Admin. Code R. 62-640.500.

<sup>179</sup> *Id.*

<sup>180</sup> Fla. Admin. Code R. 62-640.700.

<sup>181</sup> 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](http://archives.waterinstitute.ufl.edu/symposium2018/abstract_detail.asp?AssignmentID=1719) (last visited Mar. 8, 2019).

<sup>182</sup> Fla. Admin. Code R. 62-640.650.

<sup>183</sup> *Id.*

<sup>184</sup> Chapter 2016-1, Laws of Florida; *see s. 373.4595, F.S.*

<sup>185</sup> *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.<sup>186</sup> 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.<sup>187</sup>

### ***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.<sup>188</sup> 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.<sup>189</sup> The County Commission voted in January 2019 to extend the moratorium for an additional six months.<sup>190</sup>

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.<sup>191</sup> In January 2019, the ordinance was extended for an additional 180 days.<sup>192</sup>

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.<sup>193</sup> 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.<sup>194</sup> 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.<sup>195</sup>

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<sup>186</sup> Section 373.811(4), F.S.

<sup>187</sup> *Id.*

<sup>188</sup> 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](http://ircgov.granicus.com/player/clip/183?view_id=1&meta_id=64650) (last visited Dec. 9, 2019).

<sup>189</sup> *Id.*

<sup>190</sup> 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](http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302) (last visited Dec. 9, 2019).

<sup>191</sup> Fellsmere City Council Meeting, Agenda (Aug. 16, 2018), available at [https://www.cityoffellsmere.org/sites/default/files/fileattachments/city\\_council/meeting/8301/co20180816agenda.pdf](https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/8301/co20180816agenda.pdf).

<sup>192</sup> Fellsmere City Council Meeting, Agenda (Feb. 7, 2019), available at [https://www.cityoffellsmere.org/sites/default/files/fileattachments/city\\_council/meeting/14391/co20190221agenda.pdf](https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf).

<sup>193</sup> 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>.

<sup>194</sup> 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>.

<sup>195</sup> *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.<sup>196</sup>

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.<sup>197</sup>

Based on recommendations of the TAC and public input, the DEP published a draft rule on October 29, 2019.<sup>198</sup> 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,<sup>199</sup> meaning that a permit applicant must publish notice of their application one time only within fourteen days after a complete application is filed.<sup>200</sup>
- 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.<sup>201</sup> The SERC makes the following statements:

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<sup>196</sup> 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.

<sup>197</sup> DEP, *DEP Biosolids Technical Advisory Committee*, <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> (last visited Mar. 6, 2019).

<sup>198</sup> 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](https://www.flrules.org/gateway/View_Notice.asp?id=22546212) (last visited Dec. 5, 2019).

<sup>199</sup> Note: the draft rule uses the phrase “public interest” but the rule crossreferenced in the draft rule uses the phrase “public concern.”

<sup>200</sup> Fla. Admin. Code R. 62-110.106(6).

<sup>201</sup> 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](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.<sup>202</sup>

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.<sup>203</sup>

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<sup>202</sup> *Id.*

<sup>203</sup> *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.<sup>204</sup> The DEP is currently reviewing lower cost regulatory alternatives that have been submitted.<sup>205</sup> The next step will be a hearing before the Environmental Regulation Commission and adoption of the rule. Following rule adoption, legislative ratification is required.<sup>206</sup>

### ***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.<sup>207</sup> Civil actions and administrative proceedings have different procedures.<sup>208</sup> 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.<sup>209</sup>

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.<sup>210</sup>

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.<sup>211</sup>

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<sup>204</sup> *Id.*

<sup>205</sup> Email from Justin Wolfe, General Counsel, DEP, RE: Biosolids Rule (Dec. 2. 2019)(on file with the Environment and Natural Resources Committee).

<sup>206</sup> Section 120.541(3), F.S.

<sup>207</sup> Section 403.121, F.S.

<sup>208</sup> Sections 403.121 and 403.141, F.S.

<sup>209</sup> Section 403.121, F.S.

<sup>210</sup> *Id.*

<sup>211</sup> Section 403.121(3)(b), F.S.

A court or an administrative law judge may receive evidence in mitigation.<sup>212</sup> The DEP may also seek injunctive relief either judicially or administratively.<sup>213</sup> Additionally, criminal penalties are available for various types of violations of chapter 403, F.S.<sup>214</sup>

### 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.

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Section 403.121(3)(b),  
F.S.

<sup>214</sup> 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.<sup>215</sup>*

**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.<sup>216</sup>*

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<sup>215</sup> *Id.*

<sup>216</sup> *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.*<sup>217</sup>

**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

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<sup>217</sup> *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.<sup>218</sup>*

**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

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<sup>218</sup> *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.*<sup>219</sup>

**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.

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<sup>219</sup> *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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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
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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11 Program:

12 (a) The average number of permits issued each year;

13 (b) The number of department employees conducting work on  
14 or related to the program each year; and

15 (c) The program's costs and expenditures, including, but  
16 not limited to, salaries and benefits, equipment costs, and  
17 contracting costs.

18 (2) By December 31, 2020, the Department of Health and the  
19 Department of Environmental Protection shall submit  
20 recommendations to the Governor, the President of the Senate,  
21 and the Speaker of the House of Representatives regarding the  
22 transfer of the Onsite Sewage Program from the Department of  
23 Health to the Department of Environmental Protection. The  
24 recommendations must address all aspects of the transfer,  
25 including the continued role of the county health departments in  
26 the permitting, inspection, data management, and tracking of  
27 onsite sewage treatment and disposal systems under the direction  
28 of the Department of Environmental Protection.

29 (3) By June 30, 2021, the Department of Health and the  
30 Department of Environmental Protection shall enter into an  
31 interagency agreement based on the Department of Health report  
32 required under subsection (2) and on recommendations from a plan  
33 that must address all agency cooperation for a period not less  
34 than 5 years after the transfer, including:

35 (a) The continued role of the county health departments in  
36 the permitting, inspection, data management, and tracking of  
37 onsite sewage treatment and disposal systems under the direction  
38 of the Department of Environmental Protection.

39 (b) The appropriate proportionate number of administrative,



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40 auditing, inspector general, attorney, and operational support  
41 positions, and their related funding levels and sources and  
42 assigned property, to be transferred from the Office of General  
43 Counsel, the Office of Inspector General, and the Division of  
44 Administrative Services or other relevant offices or divisions  
45 within the Department of Health to the Department of  
46 Environmental Protection.

47 (c) The development of a recommended plan to address the  
48 transfer or shared use of buildings, regional offices, and other  
49 facilities used or owned by the Department of Health.

50 (d) Any operating budget adjustments that are necessary to  
51 implement the requirements of this act. Adjustments made to the  
52 operating budgets of the agencies in the implementation of this  
53 act must be made in consultation with the appropriate  
54 substantive and fiscal committees of the Senate and the House of  
55 Representatives. The revisions to the approved operating budgets  
56 for the 2021-2022 fiscal year which are necessary to reflect the  
57 organizational changes made by this act must be implemented  
58 pursuant to s. 216.292(4)(d), Florida Statutes, and are subject  
59 to s. 216.177, Florida Statutes. Subsequent adjustments between  
60 the Department of Health and the Department of Environmental  
61 Protection which are determined necessary by the respective  
62 agencies and approved by the Executive Office of the Governor  
63 are authorized and subject to s. 216.177, Florida Statutes. The  
64 appropriate substantive committees of the Senate and the House  
65 of Representatives must also be notified of the proposed  
66 revisions to ensure their consistency with legislative policy  
67 and intent.

68 (4) Effective July 1, 2021, all powers, duties, functions,



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69 records, offices, personnel, associated administrative support  
70 positions, property, pending issues, existing contracts,  
71 administrative authority, administrative rules, and unexpended  
72 balances of appropriations, allocations, and other funds for the  
73 regulation of onsite sewage treatment and disposal systems  
74 relating to the Onsite Sewage Program in the Department of  
75 Health are transferred by a type two transfer, as defined in s.  
76 20.06(2), Florida Statutes, to the Department of Environmental  
77 Protection.

78 (5) Notwithstanding chapter 60L-34, Florida Administrative  
79 Code, or any law to the contrary, employees who are transferred  
80 from the Department of Health to the Department of Environmental  
81 Protection to fill positions transferred by this act retain and  
82 transfer any accrued annual leave, sick leave, and regular and  
83 special compensatory leave balances.

84 Section 3. Subsection (1) of section 20.255, Florida  
85 Statutes, is amended to read:

86 20.255 Department of Environmental Protection.—There is  
87 created a Department of Environmental Protection.

88 (1) The head of the Department of Environmental Protection  
89 shall be a secretary, who shall be appointed by the Governor,  
90 with the concurrence of one member ~~three members~~ of the Cabinet.  
91 The secretary shall be confirmed by the Florida Senate. The  
92 secretary shall serve at the pleasure of the Governor.

93 Section 4. Paragraphs (a) and (b) of subsection (7) of  
94 section 373.036, Florida Statutes, are amended to read:

95 373.036 Florida water plan; district water management  
96 plans.—

97 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—



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98 (a) By March 1, annually, each water management district  
99 shall prepare and submit to the Office of Economic and  
100 Demographic Research, the department, the Governor, the  
101 President of the Senate, and the Speaker of the House of  
102 Representatives a consolidated water management district annual  
103 report on the management of water resources. In addition, copies  
104 must be provided by the water management districts to the chairs  
105 of all legislative committees having substantive or fiscal  
106 jurisdiction over the districts and the governing board of each  
107 county in the district having jurisdiction or deriving any funds  
108 for operations of the district. Copies of the consolidated  
109 annual report must be made available to the public, either in  
110 printed or electronic format.

111 (b) The consolidated annual report shall contain the  
112 following elements, as appropriate to that water management  
113 district:

114 1. A district water management plan annual report or the  
115 annual work plan report allowed in subparagraph (2)(e)4.

116 2. The department-approved minimum flows and minimum water  
117 levels annual priority list and schedule required by s.  
118 373.042(3).

119 3. The annual 5-year capital improvements plan required by  
120 s. 373.536(6)(a)3.

121 4. The alternative water supplies annual report required by  
122 s. 373.707(8)(n).

123 5. The final annual 5-year water resource development work  
124 program required by s. 373.536(6)(a)4.

125 6. The Florida Forever Water Management District Work Plan  
126 annual report required by s. 373.199(7).



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127           7. The mitigation donation annual report required by s.  
128 373.414(1)(b)2.

129           8. Information on all projects related to water quality or  
130 water quantity as part of a 5-year work program, including:

131           a. A list of all specific projects identified to implement  
132 a basin management action plan, including any projects to  
133 connect onsite sewage treatment and disposal systems to central  
134 sewerage systems and convert onsite sewage treatment and  
135 disposal systems to enhanced nutrient reducing onsite sewage  
136 treatment and disposal systems, or a recovery or prevention  
137 strategy;

138           b. A priority ranking for each listed project for which  
139 state funding through the water resources development work  
140 program is requested, which must be made available to the public  
141 for comment at least 30 days before submission of the  
142 consolidated annual report;

143           c. The estimated cost for each listed project;

144           d. The estimated completion date for each listed project;

145           e. The source and amount of financial assistance to be made  
146 available by the department, a water management district, or  
147 other entity for each listed project; and

148           f. A quantitative estimate of each listed project's benefit  
149 to the watershed, water body, or water segment in which it is  
150 located.

151           9. A grade for each watershed, water body, or water segment  
152 in which a project listed under subparagraph 8. is located  
153 representing the level of impairment and violations of adopted  
154 minimum flow or minimum water levels. The grading system must  
155 reflect the severity of the impairment of the watershed, water



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156 body, or water segment.

157 Section 5. Subsections (7) and (8) are added to section  
158 373.223, Florida Statutes, to read:

159 373.223 Conditions for a permit.-

160 (7) A consumptive use permit to use water derived from a  
161 spring for bottled water as defined in s. 500.03 may only be  
162 approved by unanimous vote by the governing board finding that  
163 the applicant meets the criteria in subsection (1). This  
164 subsection shall expire on June 30, 2022.

165 (8) The Department of Environmental Protection shall, in  
166 coordination with the water management districts, conduct a  
167 study on the bottled water industry in Florida.

168 (a) The study must do all of the following:

169 1. Identify all springs statewide that have an associated  
170 consumptive use permit for a bottled water facility producing  
171 its product with water derived from a spring as well as:

172 a. The magnitude of the spring;

173 b. Whether the spring has been identified as an Outstanding  
174 Florida Spring as defined in s. 373.802;

175 c. Any department or water management district adopted  
176 minimum flow or minimum water levels, the status of any adopted  
177 minimum flow or minimum water levels, and any associated  
178 recovery or prevention strategy;

179 d. The permitted and actual use associated with the  
180 consumptive use permits;

181 e. The reduction in flow associated with the permitted and  
182 actual use associated with the consumptive use permits;

183 f. The impact on springs of bottled water facilities as  
184 compared to other users; and



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185 g. Types of water conservation measures employed at bottled  
186 water facilities permitted to derive water from a spring.

187 2. Identify the labeling and marketing regulations  
188 associated with the identification of bottled water as spring  
189 water, including whether these regulations incentivize the  
190 withdrawal of water from springs.

191 3. Evaluate the direct and indirect economic benefits to  
192 the local communities resulting from bottled water facilities  
193 that derive water from springs, including but not limited to tax  
194 revenue, job creation and wages.

195 4. Evaluate the direct and indirect costs to the local  
196 communities located in proximity to springs impacted by  
197 withdrawals from bottled water production, including, but not  
198 limited to, the decreased recreational value of the spring and  
199 the cost to other users for the development of alternative water  
200 supply or reductions in permit durations and allocations.

201 5. Include a cost-benefit analysis of withdrawing,  
202 producing, marketing, selling, and consuming spring water as  
203 compared to other sources of bottled water.

204 6. Evaluate how much bottled water derived from Florida  
205 springs is sold in this state.

206 (b) The department shall submit a report containing the  
207 findings of the study to the Governor, the President of the  
208 Senate, the Speaker of the House of Representatives, and the  
209 Office of Economic and Demographic Research by June 30, 2021.

210 (c) As used in this section, the term "bottled water" has  
211 the same meaning as in s. 500.03 and the term "water derived  
212 from a spring" means water derived from an underground formation  
213 from which water flows naturally to the surface of the earth in



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214 the manner described in 21 C.F.R. 165.110(a)(2)(vi).

215 Section 6. Subsection (5) of section 373.4131, Florida  
216 Statutes, is amended, and subsection (6) is added to that  
217 section, to read:

218 373.4131 Statewide environmental resource permitting  
219 rules.—

220 (5) To ensure consistent implementation and interpretation  
221 of the rules adopted pursuant to this section, the department  
222 shall conduct or oversee regular assessment and training of its  
223 staff and the staffs of the water management districts and local  
224 governments delegated local pollution control program authority  
225 under s. 373.441. The training must include field inspections of  
226 publicly and privately owned stormwater structural controls,  
227 such as stormwater retention or detention ponds.

228 (6) By January 1, 2021:

229 (a) The department and the water management districts shall  
230 initiate rulemaking, including updates to the Environmental  
231 Resource Permit Applicant's Handbooks, to update the stormwater  
232 design and operation regulations using the most recent  
233 scientific information available. As part of rule development,  
234 the department must consider and address low-impact design best  
235 management practices and design criteria that increase the  
236 removal of nutrients from stormwater discharges, and measures  
237 for consistent application of the net improvement performance  
238 standard to ensure significant reductions of any pollutant  
239 loadings to a waterbody; and

240 (b) The department shall evaluate inspection data relating  
241 to compliance by those entities that submit a self-certification  
242 under s. 403.814(12) and provide the Legislature with





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243 recommendations for improvements to the self-certification  
244 process.

245 Section 7. Effective July 1, 2021, present paragraphs (d)  
246 through (q) of subsection (2) of section 381.0065, Florida  
247 Statutes, are redesignated as paragraphs (e) through (r),  
248 respectively, a new paragraph (d) is added to subsection (2),  
249 and subsections (3) and (4) of that section are amended, to  
250 read:

251 381.0065 Onsite sewage treatment and disposal systems;  
252 regulation.—

253 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the  
254 term:

255 (d) "Department" means the Department of Environmental  
256 Protection.

257 (3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The  
258 department shall:

259 (a) Adopt rules to administer ss. 381.0065-381.0067,  
260 including definitions that are consistent with the definitions  
261 in this section, ~~decreases to setback requirements where no~~  
262 ~~health hazard exists,~~ increases for the lot-flow allowance for  
263 performance-based systems, requirements for separation from  
264 water table elevation during the wettest season, requirements  
265 for the design and construction of any component part of an  
266 onsite sewage treatment and disposal system, application and  
267 permit requirements for persons who maintain an onsite sewage  
268 treatment and disposal system, requirements for maintenance and  
269 service agreements for aerobic treatment units and performance-  
270 based treatment systems, and recommended standards, including  
271 disclosure requirements, for voluntary system inspections to be



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272 performed by individuals who are authorized by law to perform  
273 such inspections and who shall inform a person having ownership,  
274 control, or use of an onsite sewage treatment and disposal  
275 system of the inspection standards and of that person's  
276 authority to request an inspection based on all or part of the  
277 standards.

278 (b) Perform application reviews and site evaluations, issue  
279 permits, and conduct inspections and complaint investigations  
280 associated with the construction, installation, maintenance,  
281 modification, abandonment, operation, use, or repair of an  
282 onsite sewage treatment and disposal system for a residence or  
283 establishment with an estimated domestic sewage flow of 10,000  
284 gallons or less per day, or an estimated commercial sewage flow  
285 of 5,000 gallons or less per day, which is not currently  
286 regulated under chapter 403.

287 (c) Develop a comprehensive program to ensure that onsite  
288 sewage treatment and disposal systems regulated by the  
289 department are sized, designed, constructed, installed, sited,  
290 repaired, modified, abandoned, used, operated, and maintained in  
291 compliance with this section and rules adopted under this  
292 section to prevent groundwater contamination, including impacts  
293 from nutrient pollution, and surface water contamination and to  
294 preserve the public health. The department is the final  
295 administrative interpretive authority regarding rule  
296 interpretation. In the event of a conflict regarding rule  
297 interpretation, the secretary of the department ~~State Surgeon~~  
298 ~~General~~, or his or her designee, shall timely assign a staff  
299 person to resolve the dispute.

300 (d) Grant variances in hardship cases under the conditions



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301 prescribed in this section and rules adopted under this section.

302 (e) Permit the use of a limited number of innovative  
303 systems for a specific period of time, when there is compelling  
304 evidence that the system will function properly and reliably to  
305 meet the requirements of this section and rules adopted under  
306 this section.

307 (f) Issue annual operating permits under this section.

308 (g) Establish and collect fees as established under s.  
309 381.0066 for services provided with respect to onsite sewage  
310 treatment and disposal systems.

311 (h) Conduct enforcement activities, including imposing  
312 fines, issuing citations, suspensions, revocations, injunctions,  
313 and emergency orders for violations of this section, part I of  
314 chapter 386, or part III of chapter 489 or for a violation of  
315 any rule adopted under this section, part I of chapter 386, or  
316 part III of chapter 489.

317 (i) Provide or conduct education and training of department  
318 personnel, service providers, and the public regarding onsite  
319 sewage treatment and disposal systems.

320 (j) Supervise research on, demonstration of, and training  
321 on the performance, environmental impact, and public health  
322 impact of onsite sewage treatment and disposal systems within  
323 this state. Research fees collected under s. 381.0066(2)(k) must  
324 be used to develop and fund hands-on training centers designed  
325 to provide practical information about onsite sewage treatment  
326 and disposal systems to septic tank contractors, master septic  
327 tank contractors, contractors, inspectors, engineers, and the  
328 public and must also be used to fund research projects which  
329 focus on improvements of onsite sewage treatment and disposal



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330 systems, including use of performance-based standards and  
331 reduction of environmental impact. Research projects shall be  
332 initially approved by the technical review and advisory panel  
333 and shall be applicable to and reflect the soil conditions  
334 specific to Florida. Such projects shall be awarded through  
335 competitive negotiation, using the procedures provided in s.  
336 287.055, to public or private entities that have experience in  
337 onsite sewage treatment and disposal systems in Florida and that  
338 are principally located in Florida. ~~Research projects shall not  
339 be awarded to firms or entities that employ or are associated  
340 with persons who serve on either the technical review and  
341 advisory panel or the research review and advisory committee.~~

342 (k) Approve the installation of individual graywater  
343 disposal systems in which blackwater is treated by a central  
344 sewerage system.

345 (l) Regulate and permit the sanitation, handling,  
346 treatment, storage, reuse, and disposal of byproducts from any  
347 system regulated under this chapter and not regulated by the  
348 Department of Environmental Protection.

349 (m) Permit and inspect portable or temporary toilet  
350 services and holding tanks. The department shall review  
351 applications, perform site evaluations, and issue permits for  
352 the temporary use of holding tanks, privies, portable toilet  
353 services, or any other toilet facility that is intended for use  
354 on a permanent or nonpermanent basis, including facilities  
355 placed on construction sites when workers are present. The  
356 department may specify standards for the construction,  
357 maintenance, use, and operation of any such facility for  
358 temporary use.



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359 (n) Regulate and permit maintenance entities for  
360 performance-based treatment systems and aerobic treatment unit  
361 systems. To ensure systems are maintained and operated according  
362 to manufacturer's specifications and designs, the department  
363 shall establish by rule minimum qualifying criteria for  
364 maintenance entities. The criteria shall include: training,  
365 access to approved spare parts and components, access to  
366 manufacturer's maintenance and operation manuals, and service  
367 response time. The maintenance entity shall employ a contractor  
368 licensed under s. 489.105(3)(m), or part III of chapter 489, or  
369 a state-licensed wastewater plant operator, who is responsible  
370 for maintenance and repair of all systems under contract.

371 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not  
372 construct, repair, modify, abandon, or operate an onsite sewage  
373 treatment and disposal system without first obtaining a permit  
374 approved by the department. The department may issue permits to  
375 carry out this section, ~~but shall not make the issuance of such~~  
376 ~~permits contingent upon prior approval by the Department of~~  
377 ~~Environmental Protection, except that~~ The issuance of a permit  
378 for work seaward of the coastal construction control line  
379 established under s. 161.053 shall be contingent upon receipt of  
380 any required coastal construction control line permit from the  
381 department ~~of Environmental Protection~~. A construction permit is  
382 valid for 18 months from the issuance date and may be extended  
383 by the department for one 90-day period under rules adopted by  
384 the department. A repair permit is valid for 90 days from the  
385 date of issuance. An operating permit must be obtained before  
386 ~~prior to~~ the use of any aerobic treatment unit or if the  
387 establishment generates commercial waste. Buildings or



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388 establishments that use an aerobic treatment unit or generate  
389 commercial waste shall be inspected by the department at least  
390 annually to assure compliance with the terms of the operating  
391 permit. The operating permit for a commercial wastewater system  
392 is valid for 1 year from the date of issuance and must be  
393 renewed annually. The operating permit for an aerobic treatment  
394 unit is valid for 2 years from the date of issuance and must be  
395 renewed every 2 years. If all information pertaining to the  
396 siting, location, and installation conditions or repair of an  
397 onsite sewage treatment and disposal system remains the same, a  
398 construction or repair permit for the onsite sewage treatment  
399 and disposal system may be transferred to another person, if the  
400 transferee files, within 60 days after the transfer of  
401 ownership, an amended application providing all corrected  
402 information and proof of ownership of the property. There is no  
403 fee associated with the processing of this supplemental  
404 information. A person may not contract to construct, modify,  
405 alter, repair, service, abandon, or maintain any portion of an  
406 onsite sewage treatment and disposal system without being  
407 registered under part III of chapter 489. A property owner who  
408 personally performs construction, maintenance, or repairs to a  
409 system serving his or her own owner-occupied single-family  
410 residence is exempt from registration requirements for  
411 performing such construction, maintenance, or repairs on that  
412 residence, but is subject to all permitting requirements. A  
413 municipality or political subdivision of the state may not issue  
414 a building or plumbing permit for any building that requires the  
415 use of an onsite sewage treatment and disposal system unless the  
416 owner or builder has received a construction permit for such



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417 system from the department. A building or structure may not be  
418 occupied and a municipality, political subdivision, or any state  
419 or federal agency may not authorize occupancy until the  
420 department approves the final installation of the onsite sewage  
421 treatment and disposal system. A municipality or political  
422 subdivision of the state may not approve any change in occupancy  
423 or tenancy of a building that uses an onsite sewage treatment  
424 and disposal system until the department has reviewed the use of  
425 the system with the proposed change, approved the change, and  
426 amended the operating permit.

427 (a) Subdivisions and lots in which each lot has a minimum  
428 area of at least one-half acre and either a minimum dimension of  
429 100 feet or a mean of at least 100 feet of the side bordering  
430 the street and the distance formed by a line parallel to the  
431 side bordering the street drawn between the two most distant  
432 points of the remainder of the lot may be developed with a water  
433 system regulated under s. 381.0062 and onsite sewage treatment  
434 and disposal systems, provided the projected daily sewage flow  
435 does not exceed an average of 1,500 gallons per acre per day,  
436 and provided satisfactory drinking water can be obtained and all  
437 distance and setback, soil condition, water table elevation, and  
438 other related requirements of this section and rules adopted  
439 under this section can be met.

440 (b) Subdivisions and lots using a public water system as  
441 defined in s. 403.852 may use onsite sewage treatment and  
442 disposal systems, provided there are no more than four lots per  
443 acre, provided the projected daily sewage flow does not exceed  
444 an average of 2,500 gallons per acre per day, and provided that  
445 all distance and setback, soil condition, water table elevation,



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446 and other related requirements that are generally applicable to  
447 the use of onsite sewage treatment and disposal systems are met.

448 (c) Notwithstanding paragraphs (a) and (b), for  
449 subdivisions platted of record on or before October 1, 1991,  
450 when a developer or other appropriate entity has previously made  
451 or makes provisions, including financial assurances or other  
452 commitments, acceptable to the Department ~~of Health~~, that a  
453 central water system will be installed by a regulated public  
454 utility based on a density formula, private potable wells may be  
455 used with onsite sewage treatment and disposal systems until the  
456 agreed-upon densities are reached. In a subdivision regulated by  
457 this paragraph, the average daily sewage flow may not exceed  
458 2,500 gallons per acre per day. This section does not affect the  
459 validity of existing prior agreements. After October 1, 1991,  
460 the exception provided under this paragraph is not available to  
461 a developer or other appropriate entity.

462 (d) Paragraphs (a) and (b) do not apply to any proposed  
463 residential subdivision with more than 50 lots or to any  
464 proposed commercial subdivision with more than 5 lots where a  
465 publicly owned or investor-owned sewerage system is available.  
466 It is the intent of this paragraph not to allow development of  
467 additional proposed subdivisions in order to evade the  
468 requirements of this paragraph.

469 (e) The department shall adopt rules to locate onsite  
470 sewage treatment and disposal systems, including establishing  
471 setback distances, to prevent groundwater contamination and  
472 surface water contamination and to preserve the public health.  
473 The rulemaking process for such rules must be completed by July  
474 1, 2022, and the department shall notify the Division of Law





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475 Revision of the date such rules take effect. The rules must  
476 consider conventional and enhanced nutrient-reducing onsite  
477 sewage treatment and disposal system designs, impaired or  
478 degraded water bodies, domestic wastewater and drinking water  
479 infrastructure, potable water sources, nonpotable wells,  
480 stormwater infrastructure, the onsite sewage treatment and  
481 disposal system remediation plans developed pursuant to s.  
482 403.067(7)(a)9.b., nutrient pollution, and the recommendations  
483 of the onsite sewage treatment and disposal systems technical  
484 advisory committee established pursuant to s. 381.00652.

485 (f) ~~(e)~~ Onsite sewage treatment and disposal systems that  
486 are permitted before the rules identified in paragraph (e) take  
487 effect may ~~must~~ not be placed closer than:

- 488 1. Seventy-five feet from a private potable well.
- 489 2. Two hundred feet from a public potable well serving a  
490 residential or nonresidential establishment having a total  
491 sewage flow of greater than 2,000 gallons per day.
- 492 3. One hundred feet from a public potable well serving a  
493 residential or nonresidential establishment having a total  
494 sewage flow of less than or equal to 2,000 gallons per day.
- 495 4. Fifty feet from any nonpotable well.
- 496 5. Ten feet from any storm sewer pipe, to the maximum  
497 extent possible, but in no instance shall the setback be less  
498 than 5 feet.
- 499 6. Seventy-five feet from the mean high-water line of a  
500 tidally influenced surface water body.
- 501 7. Seventy-five feet from the mean annual flood line of a  
502 permanent nontidal surface water body.
- 503 8. Fifteen feet from the design high-water line of



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504 retention areas, detention areas, or swales designed to contain  
505 standing or flowing water for less than 72 hours after a  
506 rainfall or the design high-water level of normally dry drainage  
507 ditches or normally dry individual lot stormwater retention  
508 areas.

509 ~~(f) Except as provided under paragraphs (c) and (t), no~~  
510 ~~limitations shall be imposed by rule, relating to the distance~~  
511 ~~between an onsite disposal system and any area that either~~  
512 ~~permanently or temporarily has visible surface water.~~

513 (g) All provisions of this section and rules adopted under  
514 this section relating to soil condition, water table elevation,  
515 distance, and other setback requirements must be equally applied  
516 to all lots, with the following exceptions:

517 1. Any residential lot that was platted and recorded on or  
518 after January 1, 1972, or that is part of a residential  
519 subdivision that was approved by the appropriate permitting  
520 agency on or after January 1, 1972, and that was eligible for an  
521 onsite sewage treatment and disposal system construction permit  
522 on the date of such platting and recording or approval shall be  
523 eligible for an onsite sewage treatment and disposal system  
524 construction permit, regardless of when the application for a  
525 permit is made. If rules in effect at the time the permit  
526 application is filed cannot be met, residential lots platted and  
527 recorded or approved on or after January 1, 1972, shall, to the  
528 maximum extent possible, comply with the rules in effect at the  
529 time the permit application is filed. At a minimum, however,  
530 those residential lots platted and recorded or approved on or  
531 after January 1, 1972, but before January 1, 1983, shall comply  
532 with those rules in effect on January 1, 1983, and those



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533 residential lots platted and recorded or approved on or after  
534 January 1, 1983, shall comply with those rules in effect at the  
535 time of such platting and recording or approval. In determining  
536 the maximum extent of compliance with current rules that is  
537 possible, the department shall allow structures and  
538 appurtenances thereto which were authorized at the time such  
539 lots were platted and recorded or approved.

540         2. Lots platted before 1972 are subject to a 50-foot  
541 minimum surface water setback and are not subject to lot size  
542 requirements. The projected daily flow for onsite sewage  
543 treatment and disposal systems for lots platted before 1972 may  
544 not exceed:

545             a. Two thousand five hundred gallons per acre per day for  
546 lots served by public water systems as defined in s. 403.852.

547             b. One thousand five hundred gallons per acre per day for  
548 lots served by water systems regulated under s. 381.0062.

549         (h)1. The department may grant variances in hardship cases  
550 which may be less restrictive than ~~the provisions~~ specified in  
551 this section. If a variance is granted and the onsite sewage  
552 treatment and disposal system construction permit has been  
553 issued, the variance may be transferred with the system  
554 construction permit, if the transferee files, within 60 days  
555 after the transfer of ownership, an amended construction permit  
556 application providing all corrected information and proof of  
557 ownership of the property and if the same variance would have  
558 been required for the new owner of the property as was  
559 originally granted to the original applicant for the variance.  
560 There is no fee associated with the processing of this  
561 supplemental information. A variance may not be granted under



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562 this section until the department is satisfied that:

563 a. The hardship was not caused intentionally by the action  
564 of the applicant;

565 b. No reasonable alternative, taking into consideration  
566 factors such as cost, exists for the treatment of the sewage;  
567 and

568 c. The discharge from the onsite sewage treatment and  
569 disposal system will not adversely affect the health of the  
570 applicant or the public or significantly degrade the groundwater  
571 or surface waters.

572  
573 Where soil conditions, water table elevation, and setback  
574 provisions are determined by the department to be satisfactory,  
575 special consideration must be given to those lots platted before  
576 1972.

577 2. The department shall appoint and staff a variance review  
578 and advisory committee, which shall meet monthly to recommend  
579 agency action on variance requests. The committee shall make its  
580 recommendations on variance requests at the meeting in which the  
581 application is scheduled for consideration, except for an  
582 extraordinary change in circumstances, the receipt of new  
583 information that raises new issues, or when the applicant  
584 requests an extension. The committee shall consider the criteria  
585 in subparagraph 1. in its recommended agency action on variance  
586 requests and shall also strive to allow property owners the full  
587 use of their land where possible. The committee consists of the  
588 following:

589 a. The Secretary of Environmental Protection ~~State Surgeon~~  
590 ~~General~~ or his or her designee.



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591 b. A representative from the county health departments.

592 c. A representative from the home building industry  
593 recommended by the Florida Home Builders Association.

594 d. A representative from the septic tank industry  
595 recommended by the Florida Onsite Wastewater Association.

596 e. A representative from the Department of Health  
597 ~~Environmental Protection~~.

598 f. A representative from the real estate industry who is  
599 also a developer in this state who develops lots using onsite  
600 sewage treatment and disposal systems, recommended by the  
601 Florida Association of Realtors.

602 g. A representative from the engineering profession  
603 recommended by the Florida Engineering Society.

604  
605 Members shall be appointed for a term of 3 years, with such  
606 appointments being staggered so that the terms of no more than  
607 two members expire in any one year. Members shall serve without  
608 remuneration, but if requested, shall be reimbursed for per diem  
609 and travel expenses as provided in s. 112.061.

610 (i) A construction permit may not be issued for an onsite  
611 sewage treatment and disposal system in any area zoned or used  
612 for industrial or manufacturing purposes, or its equivalent,  
613 where a publicly owned or investor-owned sewage treatment system  
614 is available, or where a likelihood exists that the system will  
615 receive toxic, hazardous, or industrial waste. An existing  
616 onsite sewage treatment and disposal system may be repaired if a  
617 publicly owned or investor-owned sewerage system is not  
618 available within 500 feet of the building sewer stub-out and if  
619 system construction and operation standards can be met. This



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620 paragraph does not require publicly owned or investor-owned  
621 sewerage treatment systems to accept anything other than  
622 domestic wastewater.

623       1. A building located in an area zoned or used for  
624 industrial or manufacturing purposes, or its equivalent, when  
625 such building is served by an onsite sewage treatment and  
626 disposal system, must not be occupied until the owner or tenant  
627 has obtained written approval from the department. The  
628 department may ~~shall~~ not grant approval when the proposed use of  
629 the system is to dispose of toxic, hazardous, or industrial  
630 wastewater or toxic or hazardous chemicals.

631       2. Each person who owns or operates a business or facility  
632 in an area zoned or used for industrial or manufacturing  
633 purposes, or its equivalent, or who owns or operates a business  
634 that has the potential to generate toxic, hazardous, or  
635 industrial wastewater or toxic or hazardous chemicals, and uses  
636 an onsite sewage treatment and disposal system that is installed  
637 on or after July 5, 1989, must obtain an annual system operating  
638 permit from the department. A person who owns or operates a  
639 business that uses an onsite sewage treatment and disposal  
640 system that was installed and approved before July 5, 1989, need  
641 not obtain a system operating permit. However, upon change of  
642 ownership or tenancy, the new owner or operator must notify the  
643 department of the change, and the new owner or operator must  
644 obtain an annual system operating permit, regardless of the date  
645 that the system was installed or approved.

646       3. The department shall periodically review and evaluate  
647 the continued use of onsite sewage treatment and disposal  
648 systems in areas zoned or used for industrial or manufacturing



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649 purposes, or its equivalent, and may require the collection and  
650 analyses of samples from within and around such systems. If the  
651 department finds that toxic or hazardous chemicals or toxic,  
652 hazardous, or industrial wastewater have been or are being  
653 disposed of through an onsite sewage treatment and disposal  
654 system, the department shall initiate enforcement actions  
655 against the owner or tenant to ensure adequate cleanup,  
656 treatment, and disposal.

657 (j) An onsite sewage treatment and disposal system designed  
658 by a professional engineer registered in the state and certified  
659 by such engineer as complying with performance criteria adopted  
660 by the department must be approved by the department subject to  
661 the following:

662 1. The performance criteria applicable to engineer-designed  
663 systems must be limited to those necessary to ensure that such  
664 systems do not adversely affect the public health or  
665 significantly degrade the groundwater or surface water. Such  
666 performance criteria shall include consideration of the quality  
667 of system effluent, the proposed total sewage flow per acre,  
668 wastewater treatment capabilities of the natural or replaced  
669 soil, water quality classification of the potential surface-  
670 water-receiving body, and the structural and maintenance  
671 viability of the system for the treatment of domestic  
672 wastewater. However, performance criteria shall address only the  
673 performance of a system and not a system's design.

674 2. A person electing to utilize an engineer-designed system  
675 shall, upon completion of the system design, submit such design,  
676 certified by a registered professional engineer, to the county  
677 health department. The county health department may utilize an



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678 outside consultant to review the engineer-designed system, with  
679 the actual cost of such review to be borne by the applicant.  
680 Within 5 working days after receiving an engineer-designed  
681 system permit application, the county health department shall  
682 request additional information if the application is not  
683 complete. Within 15 working days after receiving a complete  
684 application for an engineer-designed system, the county health  
685 department either shall issue the permit or, if it determines  
686 that the system does not comply with the performance criteria,  
687 shall notify the applicant of that determination and refer the  
688 application to the department for a determination as to whether  
689 the system should be approved, disapproved, or approved with  
690 modification. The department engineer's determination shall  
691 prevail over the action of the county health department. The  
692 applicant shall be notified in writing of the department's  
693 determination and of the applicant's rights to pursue a variance  
694 or seek review under ~~the provisions of~~ chapter 120.

695 3. The owner of an engineer-designed performance-based  
696 system must maintain a current maintenance service agreement  
697 with a maintenance entity permitted by the department. The  
698 maintenance entity shall inspect each system at least twice each  
699 year and shall report quarterly to the department on the number  
700 of systems inspected and serviced. The reports may be submitted  
701 electronically.

702 4. The property owner of an owner-occupied, single-family  
703 residence may be approved and permitted by the department as a  
704 maintenance entity for his or her own performance-based  
705 treatment system upon written certification from the system  
706 manufacturer's approved representative that the property owner





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707 has received training on the proper installation and service of  
708 the system. The maintenance service agreement must conspicuously  
709 disclose that the property owner has the right to maintain his  
710 or her own system and is exempt from contractor registration  
711 requirements for performing construction, maintenance, or  
712 repairs on the system but is subject to all permitting  
713 requirements.

714         5. The property owner shall obtain a biennial system  
715 operating permit from the department for each system. The  
716 department shall inspect the system at least annually, or on  
717 such periodic basis as the fee collected permits, and may  
718 collect system-effluent samples if appropriate to determine  
719 compliance with the performance criteria. The fee for the  
720 biennial operating permit shall be collected beginning with the  
721 second year of system operation.

722         6. If an engineer-designed system fails to properly  
723 function or fails to meet performance standards, the system  
724 shall be re-engineered, if necessary, to bring the system into  
725 compliance with ~~the provisions of~~ this section.

726         (k) An innovative system may be approved in conjunction  
727 with an engineer-designed site-specific system which is  
728 certified by the engineer to meet the performance-based criteria  
729 adopted by the department.

730         (l) For the Florida Keys, the department shall adopt a  
731 special rule for the construction, installation, modification,  
732 operation, repair, maintenance, and performance of onsite sewage  
733 treatment and disposal systems which considers the unique soil  
734 conditions and water table elevations, densities, and setback  
735 requirements. On lots where a setback distance of 75 feet from



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736 surface waters, saltmarsh, and buttonwood association habitat  
737 areas cannot be met, an injection well, approved and permitted  
738 by the department, may be used for disposal of effluent from  
739 onsite sewage treatment and disposal systems. The following  
740 additional requirements apply to onsite sewage treatment and  
741 disposal systems in Monroe County:

742 1. The county, each municipality, and those special  
743 districts established for the purpose of the collection,  
744 transmission, treatment, or disposal of sewage shall ensure, in  
745 accordance with the specific schedules adopted by the  
746 Administration Commission under s. 380.0552, the completion of  
747 onsite sewage treatment and disposal system upgrades to meet the  
748 requirements of this paragraph.

749 2. Onsite sewage treatment and disposal systems must cease  
750 discharge by December 31, 2015, or must comply with department  
751 rules and provide the level of treatment which, on a permitted  
752 annual average basis, produces an effluent that contains no more  
753 than the following concentrations:

754 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

755 b. Suspended Solids of 10 mg/l.

756 c. Total Nitrogen, expressed as N, of 10 mg/l or a  
757 reduction in nitrogen of at least 70 percent. A system that has  
758 been tested and certified to reduce nitrogen concentrations by  
759 at least 70 percent shall be deemed to be in compliance with  
760 this standard.

761 d. Total Phosphorus, expressed as P, of 1 mg/l.

762

763 In addition, onsite sewage treatment and disposal systems  
764 discharging to an injection well must provide basic disinfection



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765 as defined by department rule.

766 3. In areas not scheduled to be served by a central sewer,  
767 onsite sewage treatment and disposal systems must, by December  
768 31, 2015, comply with department rules and provide the level of  
769 treatment described in subparagraph 2.

770 4. In areas scheduled to be served by central sewer by  
771 December 31, 2015, if the property owner has paid a connection  
772 fee or assessment for connection to the central sewer system,  
773 the property owner may install a holding tank with a high water  
774 alarm or an onsite sewage treatment and disposal system that  
775 meets the following minimum standards:

776 a. The existing tanks must be pumped and inspected and  
777 certified as being watertight and free of defects in accordance  
778 with department rule; and

779 b. A sand-lined drainfield or injection well in accordance  
780 with department rule must be installed.

781 5. Onsite sewage treatment and disposal systems must be  
782 monitored for total nitrogen and total phosphorus concentrations  
783 as required by department rule.

784 6. The department shall enforce proper installation,  
785 operation, and maintenance of onsite sewage treatment and  
786 disposal systems pursuant to this chapter, including ensuring  
787 that the appropriate level of treatment described in  
788 subparagraph 2. is met.

789 7. The authority of a local government, including a special  
790 district, to mandate connection of an onsite sewage treatment  
791 and disposal system is governed by s. 4, chapter 99-395, Laws of  
792 Florida.

793 8. Notwithstanding any other ~~provision of~~ law, an onsite



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794 sewage treatment and disposal system installed after July 1,  
795 2010, in unincorporated Monroe County, excluding special  
796 wastewater districts, that complies with the standards in  
797 subparagraph 2. is not required to connect to a central sewer  
798 system until December 31, 2020.

799 (m) No product sold in the state for use in onsite sewage  
800 treatment and disposal systems may contain any substance in  
801 concentrations or amounts that would interfere with or prevent  
802 the successful operation of such system, or that would cause  
803 discharges from such systems to violate applicable water quality  
804 standards. The department shall publish criteria for products  
805 known or expected to meet the conditions of this paragraph. In  
806 the event a product does not meet such criteria, such product  
807 may be sold if the manufacturer satisfactorily demonstrates to  
808 the department that the conditions of this paragraph are met.

809 (n) Evaluations for determining the seasonal high-water  
810 table elevations or the suitability of soils for the use of a  
811 new onsite sewage treatment and disposal system shall be  
812 performed by department personnel, professional engineers  
813 registered in the state, or such other persons with expertise,  
814 as defined by rule, in making such evaluations. Evaluations for  
815 determining mean annual flood lines shall be performed by those  
816 persons identified in paragraph (2)(k) ~~(2)(j)~~. The department  
817 shall accept evaluations submitted by professional engineers and  
818 such other persons as meet the expertise established by this  
819 section or by rule unless the department has a reasonable  
820 scientific basis for questioning the accuracy or completeness of  
821 the evaluation.

822 ~~(o) The department shall appoint a research review and~~



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823 ~~advisory committee, which shall meet at least semiannually. The~~  
824 ~~committee shall advise the department on directions for new~~  
825 ~~research, review and rank proposals for research contracts, and~~  
826 ~~review draft research reports and make comments. The committee~~  
827 ~~is comprised of:~~

828 ~~1. A representative of the State Surgeon General, or his or~~  
829 ~~her designee.~~

830 ~~2. A representative from the septic tank industry.~~

831 ~~3. A representative from the home building industry.~~

832 ~~4. A representative from an environmental interest group.~~

833 ~~5. A representative from the State University System, from~~  
834 ~~a department knowledgeable about onsite sewage treatment and~~  
835 ~~disposal systems.~~

836 ~~6. A professional engineer registered in this state who has~~  
837 ~~work experience in onsite sewage treatment and disposal systems.~~

838 ~~7. A representative from local government who is~~  
839 ~~knowledgeable about domestic wastewater treatment.~~

840 ~~8. A representative from the real estate profession.~~

841 ~~9. A representative from the restaurant industry.~~

842 ~~10. A consumer.~~

843  
844 ~~Members shall be appointed for a term of 3 years, with the~~  
845 ~~appointments being staggered so that the terms of no more than~~  
846 ~~four members expire in any one year. Members shall serve without~~  
847 ~~remuneration, but are entitled to reimbursement for per diem and~~  
848 ~~travel expenses as provided in s. 112.061.~~

849 ~~(o) (p)~~ An application for an onsite sewage treatment and  
850 disposal system permit shall be completed in full, signed by the  
851 owner or the owner's authorized representative, or by a



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852 contractor licensed under chapter 489, and shall be accompanied  
853 by all required exhibits and fees. No specific documentation of  
854 property ownership shall be required as a prerequisite to the  
855 review of an application or the issuance of a permit. The  
856 issuance of a permit does not constitute determination by the  
857 department of property ownership.

858 ~~(p)~~ ~~(e)~~ The department may not require any form of  
859 subdivision analysis of property by an owner, developer, or  
860 subdivider prior to submission of an application for an onsite  
861 sewage treatment and disposal system.

862 ~~(q)~~ ~~(r)~~ Nothing in this section limits the power of a  
863 municipality or county to enforce other laws for the protection  
864 of the public health and safety.

865 ~~(r)~~ ~~(s)~~ In the siting of onsite sewage treatment and  
866 disposal systems, including drainfields, shoulders, and slopes,  
867 guttering may ~~shall~~ not be required on single-family residential  
868 dwelling units for systems located greater than 5 feet from the  
869 roof drip line of the house. If guttering is used on residential  
870 dwelling units, the downspouts shall be directed away from the  
871 drainfield.

872 ~~(s)~~ ~~(t)~~ Notwithstanding ~~the provisions of~~ subparagraph  
873 (g)1., onsite sewage treatment and disposal systems located in  
874 floodways of the Suwannee and Aucilla Rivers must adhere to the  
875 following requirements:

876 1. The absorption surface of the drainfield may ~~shall~~ not  
877 be subject to flooding based on 10-year flood elevations.  
878 Provided, however, for lots or parcels created by the  
879 subdivision of land in accordance with applicable local  
880 government regulations prior to January 17, 1990, if an



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881 applicant cannot construct a drainfield system with the  
882 absorption surface of the drainfield at an elevation equal to or  
883 above 10-year flood elevation, the department shall issue a  
884 permit for an onsite sewage treatment and disposal system within  
885 the 10-year floodplain of rivers, streams, and other bodies of  
886 flowing water if all of the following criteria are met:

887 a. The lot is at least one-half acre in size;

888 b. The bottom of the drainfield is at least 36 inches above  
889 the 2-year flood elevation; and

890 c. The applicant installs either: a waterless,  
891 incinerating, or organic waste composting toilet and a graywater  
892 system and drainfield in accordance with department rules; an  
893 aerobic treatment unit and drainfield in accordance with  
894 department rules; a system ~~approved by the State Health Office~~  
895 that is capable of reducing effluent nitrate by at least 50  
896 percent in accordance with department rules; or a system other  
897 than a system using alternative drainfield materials in

898 accordance with department rules ~~approved by the county health~~  
899 ~~department pursuant to department rule other than a system using~~  
900 ~~alternative drainfield materials~~. The United States Department  
901 of Agriculture Soil Conservation Service soil maps, State of  
902 Florida Water Management District data, and Federal Emergency  
903 Management Agency Flood Insurance maps are resources that shall  
904 be used to identify flood-prone areas.

905 2. The use of fill or mounding to elevate a drainfield  
906 system out of the 10-year floodplain of rivers, streams, or  
907 other bodies of flowing water may ~~shall~~ not be permitted if such  
908 a system lies within a regulatory floodway of the Suwannee and  
909 Aucilla Rivers. In cases where the 10-year flood elevation does



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910 not coincide with the boundaries of the regulatory floodway, the  
911 regulatory floodway will be considered for the purposes of this  
912 subsection to extend at a minimum to the 10-year flood  
913 elevation.

914 (t)~~(u)~~1. The owner of an aerobic treatment unit system  
915 shall maintain a current maintenance service agreement with an  
916 aerobic treatment unit maintenance entity permitted by the  
917 department. The maintenance entity shall inspect each aerobic  
918 treatment unit system at least twice each year and shall report  
919 quarterly to the department on the number of aerobic treatment  
920 unit systems inspected and serviced. The reports may be  
921 submitted electronically.

922 2. The property owner of an owner-occupied, single-family  
923 residence may be approved and permitted by the department as a  
924 maintenance entity for his or her own aerobic treatment unit  
925 system upon written certification from the system manufacturer's  
926 approved representative that the property owner has received  
927 training on the proper installation and service of the system.  
928 The maintenance entity service agreement must conspicuously  
929 disclose that the property owner has the right to maintain his  
930 or her own system and is exempt from contractor registration  
931 requirements for performing construction, maintenance, or  
932 repairs on the system but is subject to all permitting  
933 requirements.

934 3. A septic tank contractor licensed under part III of  
935 chapter 489, if approved by the manufacturer, may not be denied  
936 access by the manufacturer to aerobic treatment unit system  
937 training or spare parts for maintenance entities. After the  
938 original warranty period, component parts for an aerobic





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939 treatment unit system may be replaced with parts that meet  
940 manufacturer's specifications but are manufactured by others.  
941 The maintenance entity shall maintain documentation of the  
942 substitute part's equivalency for 2 years and shall provide such  
943 documentation to the department upon request.

944 4. The owner of an aerobic treatment unit system shall  
945 obtain a system operating permit from the department and allow  
946 the department to inspect during reasonable hours each aerobic  
947 treatment unit system at least annually, and such inspection may  
948 include collection and analysis of system-effluent samples for  
949 performance criteria established by rule of the department.

950 (u)~~(v)~~ The department may require the submission of  
951 detailed system construction plans that are prepared by a  
952 professional engineer registered in this state. The department  
953 shall establish by rule criteria for determining when such a  
954 submission is required.

955 (v)~~(w)~~ Any permit issued and approved by the department for  
956 the installation, modification, or repair of an onsite sewage  
957 treatment and disposal system shall transfer with the title to  
958 the property in a real estate transaction. A title may not be  
959 encumbered at the time of transfer by new permit requirements by  
960 a governmental entity for an onsite sewage treatment and  
961 disposal system which differ from the permitting requirements in  
962 effect at the time the system was permitted, modified, or  
963 repaired. An inspection of a system may not be mandated by a  
964 governmental entity at the point of sale in a real estate  
965 transaction. This paragraph does not affect a septic tank phase-  
966 out deferral program implemented by a consolidated government as  
967 defined in s. 9, Art. VIII of the State Constitution (1885).



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968           ~~(w)~~ A governmental entity, including a municipality,  
969 county, or statutorily created commission, may not require an  
970 engineer-designed performance-based treatment system, excluding  
971 a passive engineer-designed performance-based treatment system,  
972 before the completion of the Florida Onsite Sewage Nitrogen  
973 Reduction Strategies Project. This paragraph does not apply to a  
974 governmental entity, including a municipality, county, or  
975 statutorily created commission, which adopted a local law,  
976 ordinance, or regulation on or before January 31, 2012.  
977 Notwithstanding this paragraph, an engineer-designed  
978 performance-based treatment system may be used to meet the  
979 requirements of the variance review and advisory committee  
980 recommendations.

981           ~~(x)~~1. An onsite sewage treatment and disposal system is  
982 not considered abandoned if the system is disconnected from a  
983 structure that was made unusable or destroyed following a  
984 disaster and if the system was properly functioning at the time  
985 of disconnection and was not adversely affected by the disaster.  
986 The onsite sewage treatment and disposal system may be  
987 reconnected to a rebuilt structure if:

988           a. The reconnection of the system is to the same type of  
989 structure which contains the same number of bedrooms or fewer,  
990 if the square footage of the structure is less than or equal to  
991 110 percent of the original square footage of the structure that  
992 existed before the disaster;

993           b. The system is not a sanitary nuisance; and

994           c. The system has not been altered without prior  
995 authorization.

996           2. An onsite sewage treatment and disposal system that



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997 serves a property that is foreclosed upon is not considered  
998 abandoned.

999 (y)~~(z)~~ If an onsite sewage treatment and disposal system  
1000 permittee receives, relies upon, and undertakes construction of  
1001 a system based upon a validly issued construction permit under  
1002 rules applicable at the time of construction but a change to a  
1003 rule occurs within 5 years after the approval of the system for  
1004 construction but before the final approval of the system, the  
1005 rules applicable and in effect at the time of construction  
1006 approval apply at the time of final approval if fundamental site  
1007 conditions have not changed between the time of construction  
1008 approval and final approval.

1009 (z)~~(aa)~~ An existing-system inspection or evaluation and  
1010 assessment, or a modification, replacement, or upgrade of an  
1011 onsite sewage treatment and disposal system is not required for  
1012 a remodeling addition or modification to a single-family home if  
1013 a bedroom is not added. However, a remodeling addition or  
1014 modification to a single-family home may not cover any part of  
1015 the existing system or encroach upon a required setback or the  
1016 unobstructed area. To determine if a setback or the unobstructed  
1017 area is impacted, the local health department shall review and  
1018 verify a floor plan and site plan of the proposed remodeling  
1019 addition or modification to the home submitted by a remodeler  
1020 which shows the location of the system, including the distance  
1021 of the remodeling addition or modification to the home from the  
1022 onsite sewage treatment and disposal system. The local health  
1023 department may visit the site or otherwise determine the best  
1024 means of verifying the information submitted. A verification of  
1025 the location of a system is not an inspection or evaluation and



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1026 assessment of the system. The review and verification must be  
1027 completed within 7 business days after receipt by the local  
1028 health department of a floor plan and site plan. If the review  
1029 and verification is not completed within such time, the  
1030 remodeling addition or modification to the single-family home,  
1031 for the purposes of this paragraph, is approved.

1032 Section 8. Subsection (7) is added to section 381.0065,  
1033 Florida Statutes, to read:

1034 381.0065 Onsite sewage treatment and disposal systems;  
1035 regulation.—

1036 (7) USE OF NUTRIENT REDUCING ONSITE SEWAGE TREATMENT AND  
1037 DISPOSAL SYSTEMS.—To meet the requirements of a total maximum  
1038 daily load, the department shall implement a fast-track approval  
1039 process for the use in this state of American National Standards  
1040 Institute 245 systems approved by NSF International before July  
1041 1, 2020.

1042 Section 9. Section 381.00652, Florida Statutes, is created  
1043 to read:

1044 381.00652 Onsite sewage treatment and disposal systems  
1045 technical advisory committee.—

1046 (1) An onsite sewage treatment and disposal systems  
1047 technical advisory committee, a committee as defined in s.  
1048 20.03(8), is created within the department. The committee shall:

1049 (a) Provide recommendations to increase the availability in  
1050 the marketplace of enhanced nutrient-reducing onsite sewage  
1051 treatment and disposal systems, including systems that are cost-  
1052 effective, low-maintenance, and reliable.

1053 (b) Consider and recommend regulatory options, such as  
1054 fast-track approval, prequalification, or expedited permitting,



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1055 to facilitate the introduction and use of enhanced nutrient-  
1056 reducing onsite sewage treatment and disposal systems that have  
1057 been reviewed and approved by a national agency or organization,  
1058 such as the American National Standards Institute 245 systems  
1059 approved by the NSF International.

1060 (c) Provide recommendations for appropriate setback  
1061 distances for onsite sewage treatment and disposal systems from  
1062 surface water, groundwater, and wells.

1063 (2) The department shall use existing and available  
1064 resources to administer and support the activities of the  
1065 committee.

1066 (3) (a) By August 1, 2021, the department, in consultation  
1067 with the Department of Health, shall appoint no more than 10  
1068 members to the committee, including, but not limited to, the  
1069 following:

- 1070 1. A professional engineer.
- 1071 2. A septic tank contractor.
- 1072 3. Two representatives from the home building industry.
- 1073 4. A representative from the real estate industry.
- 1074 5. A representative from the onsite sewage treatment and  
1075 disposal system industry.
- 1076 6. A representative from local government.
- 1077 7. Two representatives from the environmental community.
- 1078 8. A representative of the scientific and technical  
1079 community who has substantial expertise in the areas of the fate  
1080 and transport of water pollutants, toxicology, epidemiology,  
1081 geology, biology, or environmental sciences.

1082 (b) Members shall serve without compensation and are not  
1083 entitled to reimbursement for per diem or travel expenses.



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1084           (4) By January 1, 2022, the committee shall submit its  
1085 recommendations to the Governor, the President of the Senate,  
1086 and the Speaker of the House of Representatives.

1087           (5) This section expires August 15, 2022.

1088           (6) For purposes of this section, the term "department"  
1089 means the Department of Environmental Protection.

1090           Section 10. Effective July 1, 2021, section 381.0068,  
1091 Florida Statutes, is repealed.

1092           Section 11. Present subsections (14) through (44) of  
1093 section 403.061, Florida Statutes, are redesignated as  
1094 subsections (15) through (45), respectively, a new subsection  
1095 (14) is added to that section, and subsection (7) of that  
1096 section is amended, to read:

1097           403.061 Department; powers and duties.—The department shall  
1098 have the power and the duty to control and prohibit pollution of  
1099 air and water in accordance with the law and rules adopted and  
1100 promulgated by it and, for this purpose, to:

1101           (7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
1102 ~~implement the provisions of~~ this act. Any rule adopted pursuant  
1103 to this act must ~~shall~~ be consistent with the provisions of  
1104 federal law, if any, relating to control of emissions from motor  
1105 vehicles, effluent limitations, pretreatment requirements, or  
1106 standards of performance. A ~~No~~ county, municipality, or  
1107 political subdivision may not ~~shall~~ adopt or enforce any local  
1108 ordinance, special law, or local regulation requiring the  
1109 installation of Stage II vapor recovery systems, as currently  
1110 defined by department rule, unless such county, municipality, or  
1111 political subdivision is or has been in the past designated by  
1112 federal regulation as a moderate, serious, or severe ozone



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1113 nonattainment area. Rules adopted pursuant to this act may shall  
1114 not require dischargers of waste into waters of the state to  
1115 improve natural background conditions. The department shall  
1116 adopt rules to reasonably limit, reduce, and eliminate domestic  
1117 wastewater collection and transmission system pipe leakages and  
1118 inflow and infiltration. Discharges from steam electric  
1119 generating plants existing or licensed under this chapter on  
1120 July 1, 1984, may shall not be required to be treated to a  
1121 greater extent than may be necessary to assure that the quality  
1122 of nonthermal components of discharges from nonrecirculated  
1123 cooling water systems is as high as the quality of the makeup  
1124 waters; that the quality of nonthermal components of discharges  
1125 from recirculated cooling water systems is no lower than is  
1126 allowed for blowdown from such systems; or that the quality of  
1127 noncooling system discharges which receive makeup water from a  
1128 receiving body of water which does not meet applicable  
1129 department water quality standards is as high as the quality of  
1130 the receiving body of water. The department may not adopt  
1131 standards more stringent than federal regulations, except as  
1132 provided in s. 403.804.

1133 (14) In order to promote resilient utilities, require  
1134 public utilities or their affiliated companies holding, applying  
1135 for, or renewing a domestic wastewater discharge permit to file  
1136 annual reports and other data regarding transactions or  
1137 allocations of common costs and expenditures on pollution  
1138 mitigation and prevention among the utility's permitted systems,  
1139 including, but not limited to, the prevention of sanitary sewer  
1140 overflows, collection and transmission system pipe leakages, and  
1141 inflow and infiltration. The department shall adopt rules to



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1142 implement this subsection.

1143

1144 The department shall implement such programs in conjunction with  
1145 its other powers and duties and shall place special emphasis on  
1146 reducing and eliminating contamination that presents a threat to  
1147 humans, animals or plants, or to the environment.

1148 Section 12. Section 403.0616, Florida Statutes, is created  
1149 to read:

1150 403.0616 Real-time water quality monitoring program.-

1151 (1) Subject to appropriation, the department shall  
1152 establish a real-time water quality monitoring program to assist  
1153 in the restoration, preservation, and enhancement of impaired  
1154 waterbodies and coastal resources.

1155 (2) In order to expedite the creation and implementation of  
1156 the program, the department is encouraged to form public-private  
1157 partnerships with established scientific entities that have  
1158 proven existing real-time water quality monitoring equipment and  
1159 experience in deploying the equipment.

1160 Section 13. Subsection (7) of section 403.067, Florida  
1161 Statutes, is amended to read:

1162 403.067 Establishment and implementation of total maximum  
1163 daily loads.-

1164 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND  
1165 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.-

1166 (a) *Basin management action plans.-*

1167 1. In developing and implementing the total maximum daily  
1168 load for a water body, the department, or the department in  
1169 conjunction with a water management district, may develop a  
1170 basin management action plan that addresses some or all of the





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1171 watersheds and basins tributary to the water body. Such plan  
1172 must integrate the appropriate management strategies available  
1173 to the state through existing water quality protection programs  
1174 to achieve the total maximum daily loads and may provide for  
1175 phased implementation of these management strategies to promote  
1176 timely, cost-effective actions as provided for in s. 403.151.  
1177 The plan must establish a schedule implementing the management  
1178 strategies, establish a basis for evaluating the plan's  
1179 effectiveness, and identify feasible funding strategies for  
1180 implementing the plan's management strategies. The management  
1181 strategies may include regional treatment systems or other  
1182 public works, when ~~where~~ appropriate, and voluntary trading of  
1183 water quality credits to achieve the needed pollutant load  
1184 reductions.

1185       2. A basin management action plan must equitably allocate,  
1186 pursuant to paragraph (6) (b), pollutant reductions to individual  
1187 basins, as a whole to all basins, or to each identified point  
1188 source or category of nonpoint sources, as appropriate. For  
1189 nonpoint sources for which best management practices have been  
1190 adopted, the initial requirement specified by the plan must be  
1191 those practices developed pursuant to paragraph (c). When ~~Where~~  
1192 appropriate, the plan may take into account the benefits of  
1193 pollutant load reduction achieved by point or nonpoint sources  
1194 that have implemented management strategies to reduce pollutant  
1195 loads, including best management practices, before the  
1196 development of the basin management action plan. The plan must  
1197 also identify the mechanisms that will address potential future  
1198 increases in pollutant loading.

1199       3. The basin management action planning process is intended



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1200 to involve the broadest possible range of interested parties,  
1201 with the objective of encouraging the greatest amount of  
1202 cooperation and consensus possible. In developing a basin  
1203 management action plan, the department shall assure that key  
1204 stakeholders, including, but not limited to, applicable local  
1205 governments, water management districts, the Department of  
1206 Agriculture and Consumer Services, other appropriate state  
1207 agencies, local soil and water conservation districts,  
1208 environmental groups, regulated interests, and affected  
1209 pollution sources, are invited to participate in the process.  
1210 The department shall hold at least one public meeting in the  
1211 vicinity of the watershed or basin to discuss and receive  
1212 comments during the planning process and shall otherwise  
1213 encourage public participation to the greatest practicable  
1214 extent. Notice of the public meeting must be published in a  
1215 newspaper of general circulation in each county in which the  
1216 watershed or basin lies at least not less than 5 days, but not  
1217 ~~nor~~ more than 15 days, before the public meeting. A basin  
1218 management action plan does not supplant or otherwise alter any  
1219 assessment made under subsection (3) or subsection (4) or any  
1220 calculation or initial allocation.

1221 4. Each new or revised basin management action plan shall  
1222 include:

1223 a. The appropriate management strategies available through  
1224 existing water quality protection programs to achieve total  
1225 maximum daily loads, which may provide for phased implementation  
1226 to promote timely, cost-effective actions as provided for in s.  
1227 403.151;

1228 b. A description of best management practices adopted by



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1229 rule;

1230 c. A list of projects in priority ranking with a planning-  
1231 level cost estimate and estimated date of completion for each  
1232 listed project;

1233 d. The source and amount of financial assistance to be made  
1234 available by the department, a water management district, or  
1235 other entity for each listed project, if applicable; ~~and~~

1236 e. A planning-level estimate of each listed project's  
1237 expected load reduction, if applicable; ~~and~~.

1238 f. An estimated allocation of the pollutant load reduction  
1239 for each point source or category of point sources.

1240 5. The department shall adopt all or any part of a basin  
1241 management action plan and any amendment to such plan by  
1242 secretarial order pursuant to chapter 120 to implement ~~the~~  
1243 ~~provisions of~~ this section.

1244 6. The basin management action plan must include milestones  
1245 for implementation and water quality improvement, and an  
1246 associated water quality monitoring component sufficient to  
1247 evaluate whether reasonable progress in pollutant load  
1248 reductions is being achieved over time. An assessment of  
1249 progress toward these milestones shall be conducted every 5  
1250 years, and revisions to the plan shall be made as appropriate.  
1251 Revisions to the basin management action plan shall be made by  
1252 the department in cooperation with basin stakeholders. Revisions  
1253 to the management strategies required for nonpoint sources must  
1254 follow the procedures set forth in subparagraph (c)4. Revised  
1255 basin management action plans must be adopted pursuant to  
1256 subparagraph 5.

1257 7. In accordance with procedures adopted by rule under



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1258 paragraph (9)(c), basin management action plans, and other  
1259 pollution control programs under local, state, or federal  
1260 authority as provided in subsection (4), may allow point or  
1261 nonpoint sources that will achieve greater pollutant reductions  
1262 than required by an adopted total maximum daily load or  
1263 wasteload allocation to generate, register, and trade water  
1264 quality credits for the excess reductions to enable other  
1265 sources to achieve their allocation; however, the generation of  
1266 water quality credits does not remove the obligation of a source  
1267 or activity to meet applicable technology requirements or  
1268 adopted best management practices. Such plans must allow trading  
1269 between NPDES permittees, and trading that may or may not  
1270 involve NPDES permittees, where the generation or use of the  
1271 credits involve an entity or activity not subject to department  
1272 water discharge permits whose owner voluntarily elects to obtain  
1273 department authorization for the generation and sale of credits.

1274 ~~8. The provisions of~~ The department's rule relating to the  
1275 equitable abatement of pollutants into surface waters do not  
1276 apply to water bodies or water body segments for which a basin  
1277 management plan that takes into account future new or expanded  
1278 activities or discharges has been adopted under this section.

1279 9. In order to promote resilient wastewater utilities, if  
1280 the department identifies domestic wastewater treatment  
1281 facilities or onsite sewage treatment and disposal systems as  
1282 contributors of at least 20 percent of point source or nonpoint  
1283 source nutrient pollution or if the department determines  
1284 remediation is necessary to achieve the total maximum daily  
1285 load, a basin management action plan for a nutrient total  
1286 maximum daily load must include the following:



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1287        a. A wastewater treatment plan that addresses domestic  
1288 wastewater developed by each local government in cooperation  
1289 with the department, the water management district, and the  
1290 public and private domestic wastewater treatment facilities  
1291 within the jurisdiction of the local government. The wastewater  
1292 treatment plan must:

1293            (I) Provide for construction, expansion, or upgrades  
1294 necessary to achieve the total maximum daily load requirements  
1295 applicable to the domestic wastewater treatment facility.

1296            (II) Include the permitted capacity in average annual  
1297 gallons per day for the domestic wastewater treatment facility;  
1298 the average nutrient concentration and the estimated average  
1299 nutrient load of the domestic wastewater; a timeline of the  
1300 dates by which the construction of any facility improvements  
1301 will begin and be completed and the date by which operations of  
1302 the improved facility will begin; the estimated cost of the  
1303 improvements; and the identity of responsible parties.

1304  
1305 The wastewater treatment plan must be adopted as part of the  
1306 basin management action plan no later than July 1, 2025. A local  
1307 government that does not have a domestic wastewater treatment  
1308 facility in its jurisdiction is not required to develop a  
1309 wastewater treatment plan unless there is a demonstrated need to  
1310 establish a domestic wastewater treatment facility within its  
1311 jurisdiction to improve water quality necessary to achieve a  
1312 total maximum daily load. A local government is not responsible  
1313 for a private domestic wastewater facility's compliance with a  
1314 basin management action plan unless such facility is operated  
1315 through a public-private partnership to which the local



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1316 government is a party.

1317 b. An onsite sewage treatment and disposal system  
1318 remediation plan developed by each local government in  
1319 cooperation with the department, the Department of Health, water  
1320 management districts, and public and private domestic wastewater  
1321 treatment facilities.

1322 (I) The onsite sewage treatment and disposal system  
1323 remediation plan must identify cost-effective and financially  
1324 feasible projects necessary to achieve the nutrient load  
1325 reductions required for onsite sewage treatment and disposal  
1326 systems. To identify cost-effective and financially feasible  
1327 projects for remediation of onsite sewage treatment and disposal  
1328 systems, the local government shall:

1329 (A) Include an inventory of onsite sewage treatment and  
1330 disposal systems based on the best information available;

1331 (B) Identify onsite sewage treatment and disposal systems  
1332 that would be eliminated through connection to existing or  
1333 future central domestic wastewater infrastructure in the  
1334 jurisdiction or domestic wastewater service area of the local  
1335 government, that would be replaced with or upgraded to enhanced  
1336 nutrient-reducing systems, or that would remain on conventional  
1337 onsite sewage treatment and disposal systems;

1338 (C) Estimate the costs of potential onsite sewage treatment  
1339 and disposal systems connections, upgrades, or replacements; and

1340 (D) Identify deadlines and interim milestones for the  
1341 planning, design, and construction of projects.

1342 (II) The department shall adopt the onsite sewage treatment  
1343 and disposal system remediation plan as part of the basin  
1344 management action plan no later than July 1, 2025, or as



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1345 required for Outstanding Florida Springs under s. 373.807.

1346 10. When identifying wastewater projects in a basin  
1347 management action plan, the department may not require the  
1348 higher cost option if it achieves the same nutrient load  
1349 reduction as a lower cost option. A regulated entity may choose  
1350 a different cost option if it complies with the pollutant  
1351 reduction requirements of an adopted total maximum daily load  
1352 and provides additional benefits.

1353 *(b) Total maximum daily load implementation.—*

1354 1. The department shall be the lead agency in coordinating  
1355 the implementation of the total maximum daily loads through  
1356 existing water quality protection programs. Application of a  
1357 total maximum daily load by a water management district must be  
1358 consistent with this section and does not require the issuance  
1359 of an order or a separate action pursuant to s. 120.536(1) or s.  
1360 120.54 for the adoption of the calculation and allocation  
1361 previously established by the department. Such programs may  
1362 include, but are not limited to:

1363 a. Permitting and other existing regulatory programs,  
1364 including water-quality-based effluent limitations;

1365 b. Nonregulatory and incentive-based programs, including  
1366 best management practices, cost sharing, waste minimization,  
1367 pollution prevention, agreements established pursuant to s.  
1368 403.061(22) ~~s. 403.061(21)~~, and public education;

1369 c. Other water quality management and restoration  
1370 activities, for example surface water improvement and management  
1371 plans approved by water management districts or basin management  
1372 action plans developed pursuant to this subsection;

1373 d. Trading of water quality credits or other equitable



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1374 economically based agreements;

1375 e. Public works including capital facilities; or

1376 f. Land acquisition.

1377 2. For a basin management action plan adopted pursuant to  
1378 paragraph (a), any management strategies and pollutant reduction  
1379 requirements associated with a pollutant of concern for which a  
1380 total maximum daily load has been developed, including effluent  
1381 limits set forth for a discharger subject to NPDES permitting,  
1382 if any, must be included in a timely manner in subsequent NPDES  
1383 permits or permit modifications for that discharger. The  
1384 department may not impose limits or conditions implementing an  
1385 adopted total maximum daily load in an NPDES permit until the  
1386 permit expires, the discharge is modified, or the permit is  
1387 reopened pursuant to an adopted basin management action plan.

1388 a. Absent a detailed allocation, total maximum daily loads  
1389 must be implemented through NPDES permit conditions that provide  
1390 for a compliance schedule. In such instances, a facility's NPDES  
1391 permit must allow time for the issuance of an order adopting the  
1392 basin management action plan. The time allowed for the issuance  
1393 of an order adopting the plan may not exceed 5 years. Upon  
1394 issuance of an order adopting the plan, the permit must be  
1395 reopened or renewed, as necessary, and permit conditions  
1396 consistent with the plan must be established. Notwithstanding  
1397 the other provisions of this subparagraph, upon request by an  
1398 NPDES permittee, the department as part of a permit issuance,  
1399 renewal, or modification may establish individual allocations  
1400 before the adoption of a basin management action plan.

1401 b. For holders of NPDES municipal separate storm sewer  
1402 system permits and other stormwater sources, implementation of a





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1403 total maximum daily load or basin management action plan must be  
1404 achieved, to the maximum extent practicable, through the use of  
1405 best management practices or other management measures.

1406 c. The basin management action plan does not relieve the  
1407 discharger from any requirement to obtain, renew, or modify an  
1408 NPDES permit or to abide by other requirements of the permit.

1409 d. Management strategies set forth in a basin management  
1410 action plan to be implemented by a discharger subject to  
1411 permitting by the department must be completed pursuant to the  
1412 schedule set forth in the basin management action plan. This  
1413 implementation schedule may extend beyond the 5-year term of an  
1414 NPDES permit.

1415 e. Management strategies and pollution reduction  
1416 requirements set forth in a basin management action plan for a  
1417 specific pollutant of concern are not subject to challenge under  
1418 chapter 120 at the time they are incorporated, in an identical  
1419 form, into a subsequent NPDES permit or permit modification.

1420 f. For nonagricultural pollutant sources not subject to  
1421 NPDES permitting but permitted pursuant to other state,  
1422 regional, or local water quality programs, the pollutant  
1423 reduction actions adopted in a basin management action plan must  
1424 be implemented to the maximum extent practicable as part of  
1425 those permitting programs.

1426 g. A nonpoint source discharger included in a basin  
1427 management action plan must demonstrate compliance with the  
1428 pollutant reductions established under subsection (6) by  
1429 implementing the appropriate best management practices  
1430 established pursuant to paragraph (c) or conducting water  
1431 quality monitoring prescribed by the department or a water



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1432 management district. A nonpoint source discharger may, in  
1433 accordance with department rules, supplement the implementation  
1434 of best management practices with water quality credit trades in  
1435 order to demonstrate compliance with the pollutant reductions  
1436 established under subsection (6).

1437 h. A nonpoint source discharger included in a basin  
1438 management action plan may be subject to enforcement action by  
1439 the department or a water management district based upon a  
1440 failure to implement the responsibilities set forth in sub-  
1441 subparagraph g.

1442 i. A landowner, discharger, or other responsible person who  
1443 is implementing applicable management strategies specified in an  
1444 adopted basin management action plan may not be required by  
1445 permit, enforcement action, or otherwise to implement additional  
1446 management strategies, including water quality credit trading,  
1447 to reduce pollutant loads to attain the pollutant reductions  
1448 established pursuant to subsection (6) and shall be deemed to be  
1449 in compliance with this section. This subparagraph does not  
1450 limit the authority of the department to amend a basin  
1451 management action plan as specified in subparagraph (a)6.

1452 (c) *Best management practices.*—

1453 1. The department, in cooperation with the water management  
1454 districts and other interested parties, as appropriate, may  
1455 develop suitable interim measures, best management practices, or  
1456 other measures necessary to achieve the level of pollution  
1457 reduction established by the department for nonagricultural  
1458 nonpoint pollutant sources in allocations developed pursuant to  
1459 subsection (6) and this subsection. These practices and measures  
1460 may be adopted by rule by the department and the water



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1461 management districts and, where adopted by rule, shall be  
1462 implemented by those parties responsible for nonagricultural  
1463 nonpoint source pollution.

1464         2. The Department of Agriculture and Consumer Services may  
1465 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
1466 suitable interim measures, best management practices, or other  
1467 measures necessary to achieve the level of pollution reduction  
1468 established by the department for agricultural pollutant sources  
1469 in allocations developed pursuant to subsection (6) and this  
1470 subsection or for programs implemented pursuant to paragraph  
1471 (12) (b). These practices and measures may be implemented by  
1472 those parties responsible for agricultural pollutant sources and  
1473 the department, the water management districts, and the  
1474 Department of Agriculture and Consumer Services shall assist  
1475 with implementation. In the process of developing and adopting  
1476 rules for interim measures, best management practices, or other  
1477 measures, the Department of Agriculture and Consumer Services  
1478 shall consult with the department, the Department of Health, the  
1479 water management districts, representatives from affected  
1480 farming groups, and environmental group representatives. Such  
1481 rules must also incorporate provisions for a notice of intent to  
1482 implement the practices and a system to assure the  
1483 implementation of the practices, including site inspection and  
1484 recordkeeping requirements.

1485         3. Where interim measures, best management practices, or  
1486 other measures are adopted by rule, the effectiveness of such  
1487 practices in achieving the levels of pollution reduction  
1488 established in allocations developed by the department pursuant  
1489 to subsection (6) and this subsection or in programs implemented



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1490 pursuant to paragraph (12) (b) must be verified at representative  
1491 sites by the department. The department shall use best  
1492 professional judgment in making the initial verification that  
1493 the best management practices are reasonably expected to be  
1494 effective and, where applicable, must notify the appropriate  
1495 water management district or the Department of Agriculture and  
1496 Consumer Services of its initial verification before the  
1497 adoption of a rule proposed pursuant to this paragraph.  
1498 Implementation, in accordance with rules adopted under this  
1499 paragraph, of practices that have been initially verified to be  
1500 effective, or verified to be effective by monitoring at  
1501 representative sites, by the department, shall provide a  
1502 presumption of compliance with state water quality standards and  
1503 release from ~~the provisions of~~ s. 376.307(5) for those  
1504 pollutants addressed by the practices, and the department is not  
1505 authorized to institute proceedings against the owner of the  
1506 source of pollution to recover costs or damages associated with  
1507 the contamination of surface water or groundwater caused by  
1508 those pollutants. Research projects funded by the department, a  
1509 water management district, or the Department of Agriculture and  
1510 Consumer Services to develop or demonstrate interim measures or  
1511 best management practices shall be granted a presumption of  
1512 compliance with state water quality standards and a release from  
1513 ~~the provisions of~~ s. 376.307(5). The presumption of compliance  
1514 and release is limited to the research site and only for those  
1515 pollutants addressed by the interim measures or best management  
1516 practices. Eligibility for the presumption of compliance and  
1517 release is limited to research projects on sites where the owner  
1518 or operator of the research site and the department, a water



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1519 management district, or the Department of Agriculture and  
1520 Consumer Services have entered into a contract or other  
1521 agreement that, at a minimum, specifies the research objectives,  
1522 the cost-share responsibilities of the parties, and a schedule  
1523 that details the beginning and ending dates of the project.

1524 4. Where water quality problems are demonstrated, despite  
1525 the appropriate implementation, operation, and maintenance of  
1526 best management practices and other measures required by rules  
1527 adopted under this paragraph, the department, a water management  
1528 district, or the Department of Agriculture and Consumer  
1529 Services, in consultation with the department, shall institute a  
1530 reevaluation of the best management practice or other measure.  
1531 Should the reevaluation determine that the best management  
1532 practice or other measure requires modification, the department,  
1533 a water management district, or the Department of Agriculture  
1534 and Consumer Services, as appropriate, shall revise the rule to  
1535 require implementation of the modified practice within a  
1536 reasonable time period as specified in the rule.

1537 5. Subject to subparagraph 6., the Department of  
1538 Agriculture and Consumer Services shall provide to the  
1539 department information that it obtains pursuant to subparagraph  
1540 (d) 3.

1541 6. Agricultural records relating to processes or methods of  
1542 production, costs of production, profits, or other financial  
1543 information held by the Department of Agriculture and Consumer  
1544 Services pursuant to subparagraphs 3., ~~and~~ 4., and 5. or  
1545 pursuant to any rule adopted pursuant to subparagraph 2. are  
1546 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
1547 of the State Constitution. Upon request, records made



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1548 confidential and exempt pursuant to this subparagraph shall be  
1549 released to the department or any water management district  
1550 provided that the confidentiality specified by this subparagraph  
1551 for such records is maintained.

1552 ~~7.6. The provisions of~~ Subparagraphs 1. and 2. do not  
1553 preclude the department or water management district from  
1554 requiring compliance with water quality standards or with  
1555 current best management practice requirements set forth in any  
1556 applicable regulatory program authorized by law for the purpose  
1557 of protecting water quality. Additionally, subparagraphs 1. and  
1558 2. are applicable only to the extent that they do not conflict  
1559 with any rules adopted by the department that are necessary to  
1560 maintain a federally delegated or approved program.

1561 (d) *Enforcement and verification of basin management action*  
1562 *plans and management strategies.*—

1563 1. Basin management action plans are enforceable pursuant  
1564 to this section and ss. 403.121, 403.141, and 403.161.  
1565 Management strategies, including best management practices and  
1566 water quality monitoring, are enforceable under this chapter.

1567 2. No later than January 1, 2017:

1568 a. The department, in consultation with the water  
1569 management districts and the Department of Agriculture and  
1570 Consumer Services, shall initiate rulemaking to adopt procedures  
1571 to verify implementation of water quality monitoring required in  
1572 lieu of implementation of best management practices or other  
1573 measures pursuant to sub-subparagraph (b)2.g.;

1574 b. The department, in consultation with the water  
1575 management districts and the Department of Agriculture and  
1576 Consumer Services, shall initiate rulemaking to adopt procedures



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1577 to verify implementation of nonagricultural interim measures,  
1578 best management practices, or other measures adopted by rule  
1579 pursuant to subparagraph (c)1.; and

1580 c. The Department of Agriculture and Consumer Services, in  
1581 consultation with the water management districts and the  
1582 department, shall initiate rulemaking to adopt procedures to  
1583 verify implementation of agricultural interim measures, best  
1584 management practices, or other measures adopted by rule pursuant  
1585 to subparagraph(c)2.

1586

1587 The rules required under this subparagraph shall include  
1588 enforcement procedures applicable to the landowner, discharger,  
1589 or other responsible person required to implement applicable  
1590 management strategies, including best management practices or  
1591 water quality monitoring as a result of noncompliance.

1592 3. At least every 2 years, the Department of Agriculture  
1593 and Consumer Services shall perform onsite inspections of each  
1594 agricultural producer that enrolls in a best management practice  
1595 to ensure that such practice is being properly implemented. Such  
1596 verification must include a collection and review of the best  
1597 management practice documentation from the previous 2 years  
1598 required by rule adopted in accordance with subparagraph (c)2.,  
1599 including, but not limited to, nitrogen and phosphorous  
1600 fertilizer application records, which must be collected and  
1601 retained pursuant to subparagraphs (c)3., 4., and 6. The  
1602 Department of Agriculture and Consumer Services shall initially  
1603 prioritize the inspection of agricultural producers located in  
1604 the basin management action plans for Lake Okeechobee, the  
1605 Indian River Lagoon, the Caloosahatchee River and Estuary, and



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1606 Silver Springs.  
1607 (e) Cooperative agricultural regional water quality  
1608 improvement element.—  
1609 1. The department, the Department of Agriculture and  
1610 Consumer Services, and owners of agricultural operations in the  
1611 basin shall develop a cooperative agricultural regional water  
1612 quality improvement element as part of a basin management action  
1613 plan only if:  
1614 a. Agricultural measures have been adopted by the  
1615 Department of Agriculture and Consumer Services pursuant to  
1616 subparagraph (c)2. and have been implemented and the waterbody  
1617 remains impaired;  
1618 b. Agricultural nonpoint sources contribute to at least 20  
1619 percent of nonpoint source nutrient discharges; and  
1620 c. The department determines that additional measures, in  
1621 combination with state-sponsored regional projects and other  
1622 management strategies included in the basin management action  
1623 plan, are necessary to achieve the total maximum daily load.  
1624 2. The element will be implemented through the use of cost-  
1625 sharing projects. The element must include cost-effective and  
1626 technically and financially practical cooperative regional  
1627 agricultural nutrient reduction projects that can be implemented  
1628 on private properties on a site-specific, cooperative basis.  
1629 Such cooperative regional agricultural nutrient reduction  
1630 projects may include land acquisition in fee or conservation  
1631 easements on the lands of willing sellers and site-specific  
1632 water quality improvement or dispersed water management projects  
1633 on the lands of project participants.  
1634 3. To qualify for participation in the cooperative





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1635 agricultural regional water quality improvement element, the  
1636 participant must have already implemented the interim measures,  
1637 best management practices, or other measures adopted by the  
1638 Department of Agriculture and Consumer Services pursuant to  
1639 subparagraph (c)2. The element may be included in the basin  
1640 management action plan as a part of the next 5-year assessment  
1641 under subparagraph (a)6.

1642 4. The department may submit a legislative budget request  
1643 to fund projects developed pursuant to this paragraph.

1644 (f) *Data collection and research.*—

1645 1. The Department of Agriculture and Consumer Services, in  
1646 cooperation with the University of Florida Institute of Food and  
1647 Agricultural Sciences and other state universities and Florida  
1648 College System institutions with agricultural research programs,  
1649 shall annually develop research plans and legislative budget  
1650 requests to:

1651 a. Evaluate and suggest enhancements to the existing  
1652 adopted agricultural best management practices to reduce  
1653 nutrient runoff;

1654 b. Develop new best management practices that, if proven  
1655 effective, the Department of Agriculture and Consumer Services  
1656 may adopt by rule pursuant to subparagraph (c)2.; and

1657 c. Develop agricultural nutrient runoff reduction projects  
1658 that willing participants could implement on a site-specific,  
1659 cooperative basis, in addition to best management practices. The  
1660 department may consider these projects for inclusion in a basin  
1661 management action plan. These nutrient runoff reduction projects  
1662 must reduce the nutrient impacts from agricultural operations on  
1663 water quality when evaluated with the projects and management



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1664 strategies currently included in the basin management action  
1665 plan.

1666 2. To be considered for funding, the University of Florida  
1667 Institute of Food and Agricultural Sciences and other state  
1668 universities and Florida College System institutions that have  
1669 agricultural research programs must submit such plans to the  
1670 department and the Department of Agriculture and Consumer  
1671 Services by August 1, 2020, for the 2021-2022 fiscal year, and  
1672 by May 1 for each subsequent fiscal year.

1673 3. The department shall work with the University of Florida  
1674 Institute of Food and Agricultural Sciences and regulated  
1675 entities to consider the adoption by rule of best management  
1676 practices for nutrient impacts from golf courses. Such adopted  
1677 best management practices are subject to the requirements of  
1678 paragraph (c).

1679 Section 14. Section 403.0671, Florida Statutes, is created  
1680 to read:

1681 403.0671 Basin management action plan wastewater reports.-

1682 (1) By July 1, 2021, the department, in coordination with  
1683 the county health departments, wastewater treatment facilities,  
1684 and other governmental entities, shall submit a report to the  
1685 Governor, the President of the Senate, and the Speaker of the  
1686 House of Representatives evaluating the costs of wastewater  
1687 projects identified in the basin management action plans  
1688 developed pursuant to ss. 373.807 and 403.067(7) and the onsite  
1689 sewage treatment and disposal system remediation plans and other  
1690 restoration plans developed to meet the total maximum daily  
1691 loads required under s. 403.067. The report must include:

1692 (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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1722 (a) Evaluate the water quality monitoring prescribed for  
1723 each basin management action plan to determine if it is  
1724 sufficient to detect changes in water quality caused by the  
1725 implementation of a project.

1726 (b) Identify gaps in water quality monitoring.

1727 (c) Recommend ways to address water quality monitoring  
1728 needs.

1729 (3) Beginning January 1, 2022, and each January 1  
1730 thereafter, the department shall submit to the Office of  
1731 Economic and Demographic Research the cost estimates for  
1732 projects required under s. 403.067(7)(a)9. The office shall  
1733 include the project cost estimates in its annual assessment  
1734 conducted pursuant to s. 403.928.

1735 Section 15. Section 403.0673, Florida Statutes, is created  
1736 to read:

1737 403.0673 Wastewater grant program.—A wastewater grant  
1738 program is established within the Department of Environmental  
1739 Protection.

1740 (1) Subject to the appropriation of funds by the  
1741 Legislature, the department may provide grants for the following  
1742 projects within a basin management action plan, an alternative  
1743 restoration plan adopted by final order, or a rural area of  
1744 opportunity under s. 288.0656 which will individually or  
1745 collectively reduce excess nutrient pollution:

1746 (a) Projects to retrofit onsite sewage treatment and  
1747 disposal systems to upgrade them to enhanced nutrient-reducing  
1748 onsite sewage treatment and disposal systems.

1749 (b) Projects to construct, upgrade, or expand facilities to  
1750 provide advanced waste treatment, as defined in s. 403.086(4).



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1751 (c) Projects to connect onsite sewage treatment and  
1752 disposal systems to central sewer facilities.

1753 (2) In allocating such funds, priority must be given to  
1754 projects that subsidize the connection of onsite sewage  
1755 treatment and disposal systems to wastewater treatment plants.  
1756 First priority must be given to subsidize connection to existing  
1757 infrastructure. Second priority must be given to any expansion  
1758 of a collection or transmission system that promotes efficiency  
1759 by planning the installation of wastewater transmission  
1760 facilities to be constructed concurrently with other  
1761 construction projects occurring within or along a transportation  
1762 facility right-of-way. Third priority must be given to all other  
1763 connection of onsite sewage treatment and disposal systems to  
1764 wastewater treatment plants. The department shall consider the  
1765 estimated reduction in nutrient load per project; project  
1766 readiness; cost-effectiveness of the project; overall  
1767 environmental benefit of a project; the location of a project;  
1768 the availability of local matching funds; and projected water  
1769 savings or quantity improvements associated with a project.

1770 (3) Each grant for a project described in subsection (1)  
1771 must require a minimum of a 50 percent local match of funds.  
1772 However, the department may, at its discretion, waive, in whole  
1773 or in part, this consideration of the local contribution for  
1774 proposed projects within an area designated as a rural area of  
1775 opportunity under s. 288.0656.

1776 (4) The department shall coordinate with each water  
1777 management district, as necessary, to identify grant recipients  
1778 in each district.

1779 (5) Beginning January 1, 2021, and each January 1



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1780 thereafter, the department shall submit a report regarding the  
1781 projects funded pursuant to this section to the Governor, the  
1782 President of the Senate, and the Speaker of the House of  
1783 Representatives.

1784 Section 16. Section 403.0855, Florida Statutes, is created  
1785 to read:

1786 403.0855 Biosolids management.—

1787 (1) The Legislature finds that it is in the best interest  
1788 of this state to regulate biosolids management in order to  
1789 minimize the offsite migration of nutrients that impair  
1790 waterbodies. The Legislature further finds that the expedited  
1791 implementation of the recommendations of the Biosolids Technical  
1792 Advisory Committee, including permitting according to site-  
1793 specific application conditions, an increased inspection rate,  
1794 groundwater and surface water monitoring protocols, and nutrient  
1795 management research, will improve biosolids management and  
1796 assist in protecting this state's water resources and water  
1797 quality.

1798 (2) The department shall adopt rules for biosolids  
1799 management.

1800 (3) Effective July 1, 2020, all biosolids application sites  
1801 must meet department rules in effect at the time of the renewal  
1802 of the biosolids application site permit or facility permit.

1803 (4) A municipality or county may enforce or extend an  
1804 ordinance, a regulation, a resolution, a rule, a moratorium, or  
1805 a policy, any of which was adopted before November 1, 2019,  
1806 relating to the land application of Class B biosolids until the  
1807 ordinance, regulation, resolution, rule, moratorium, or policy  
1808 is repealed by the municipality or county.



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1809       (5) The permittee of a biosolids land application site  
1810 shall:  
1811       (a) Conduct the land application of biosolids in accordance  
1812 with basin management action plans adopted in accordance with  
1813 ss. 373.807 and 403.067(7).  
1814       (b) Establish a groundwater monitoring program approved by  
1815 the department for land application sites when:  
1816       1. The application rate in the nutrient management plan  
1817 exceeds more than 160 pounds per acre per year of total plant  
1818 available nitrogen or 40 pounds per acre per year of total P205;  
1819 or  
1820       2. The soil capacity index is less than 0 mg/kg.  
1821       (c) When soil fertility testing indicates the soil capacity  
1822 index has become less than 0 mg/kg, establish a groundwater  
1823 monitoring program in accordance with department rules within 1  
1824 year of the date of the sampling results.  
1825       (d) When groundwater monitoring is not required, allow the  
1826 department to install groundwater monitoring wells at any time  
1827 during the effective period of the department-issued facility or  
1828 land application site permit and conduct monitoring.  
1829       (e) Ensure a minimum unsaturated soil depth of 2 feet  
1830 between the depth of biosolids placement and the water table  
1831 level at the time the Class A or Class B biosolids are applied  
1832 to the soil. Biosolids may not be applied on soils that have a  
1833 seasonal high-water table less than 15 centimeters from the soil  
1834 surface or within 15 centimeters of the intended depth of  
1835 biosolids placement. As used in this section, the term "seasonal  
1836 high water" means the elevation to which the ground and surface  
1837 water may be expected to rise due to a normal wet season.



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1838           (f) Be enrolled in the Department of Agriculture and  
1839 Consumer Service's Best Management Practices Program or be  
1840 within an agricultural operation enrolled in the program for the  
1841 applicable commodity type.

1842           (6) This subsection and subsection (5) are repealed upon  
1843 the effective date of biosolids rules adopted by the department  
1844 after July 1, 2020.

1845           Section 17. Present subsections (7) through (10) of section  
1846 403.086, Florida Statutes, are redesignated as subsections (8)  
1847 through (11), respectively, paragraph (d) is added to subsection  
1848 (1) and a new subsection (7) is added to that section, and  
1849 paragraph (c) of subsection (1) and subsection (2) of that  
1850 section are amended, to read:

1851           403.086 Sewage disposal facilities; advanced and secondary  
1852 waste treatment.—

1853           (1)

1854           (c) Notwithstanding ~~any other provisions of~~ this chapter or  
1855 chapter 373, facilities for sanitary sewage disposal may not  
1856 dispose of any wastes into Old Tampa Bay, Tampa Bay,  
1857 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater  
1858 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,  
1859 ~~or~~ Charlotte Harbor Bay, or, beginning July 1, 2025, Indian  
1860 River Lagoon, or into any river, stream, channel, canal, bay,  
1861 bayou, sound, or other water tributary thereto, without  
1862 providing advanced waste treatment, as defined in subsection  
1863 (4), approved by the department. This paragraph does ~~shall~~ not  
1864 apply to facilities which were permitted by February 1, 1987,  
1865 and which discharge secondary treated effluent, followed by  
1866 water hyacinth treatment, to tributaries of tributaries of the





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1867 named waters; or to facilities permitted to discharge to the  
1868 nontidally influenced portions of the Peace River.

1869 (d) By December 31, 2020, the department, in consultation  
1870 with the water management districts and sewage disposal  
1871 facilities, shall submit to the Governor, the President of the  
1872 Senate, and the Speaker of the House of Representatives a  
1873 progress report on the status of upgrades made by each facility  
1874 to meet the advanced waste treatment requirements under  
1875 paragraph (c). The report must include a list of sewage disposal  
1876 facilities required to upgrade to advanced waste treatment, the  
1877 preliminary cost estimates for the upgrades, and a projected  
1878 timeline of the dates by which the upgrades will begin and be  
1879 completed and the date by which operations of the upgraded  
1880 facility will begin.

1881 (2) Any facilities for sanitary sewage disposal shall  
1882 provide for secondary waste treatment, a power outage  
1883 contingency plan that mitigates the impacts of power outages on  
1884 the utility's collection system and pump stations, and, ~~in~~  
1885 addition thereto, advanced waste treatment as deemed necessary  
1886 and ordered by the Department of Environmental Protection.  
1887 Failure to conform is ~~shall be~~ punishable by a civil penalty of  
1888 \$500 for each 24-hour day or fraction thereof that such failure  
1889 is allowed to continue thereafter.

1890 (7) All facilities for sanitary sewage under subsection (2)  
1891 which control a collection or transmission system of pipes and  
1892 pumps to collect and transmit wastewater from domestic or  
1893 industrial sources to the facility shall take steps to prevent  
1894 sanitary sewer overflows or underground pipe leaks and ensure  
1895 that collected wastewater reaches the facility for appropriate



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1896 treatment. Facilities must use inflow and infiltration studies  
1897 and leakage surveys to develop pipe assessment, repair, and  
1898 replacement action plans with at least a 5-year planning horizon  
1899 which comply with department rule to limit, reduce, and  
1900 eliminate leaks, seepages, or inputs into wastewater treatment  
1901 systems' underground pipes. The pipe assessment, repair, and  
1902 replacement action plans must be reported to the department. The  
1903 facility action plan must include information regarding the  
1904 annual expenditures dedicated to the inflow and infiltration  
1905 studies and the required replacement action plans; expenditures  
1906 that are dedicated to pipe assessment, repair, and replacement;  
1907 and expenditures designed to limit the presence of fats, roots,  
1908 oils, and grease in the utility's collection system. The  
1909 department shall adopt rules regarding the implementation of  
1910 inflow and infiltration studies and leakage surveys; however,  
1911 such department rules may not fix or revise utility rates or  
1912 budgets. Any entity subject to this subsection and s.  
1913 403.061(14) may submit one report to comply with both  
1914 provisions. Substantial compliance with this subsection is  
1915 evidence in mitigation for the purposes of assessing penalties  
1916 pursuant to ss. 403.121 and 403.141.

1917 Section 18. Present subsections (4) through (10) of section  
1918 403.087, Florida Statutes, are redesignated as subsections (5)  
1919 through (11), respectively, and a new subsection (4) is added to  
1920 that section, to read:

1921 403.087 Permits; general issuance; denial; revocation;  
1922 prohibition; penalty.—

1923 (4) The department shall issue an operation permit for a  
1924 domestic wastewater treatment facility other than a facility



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1925 regulated under the National Pollutant Discharge Elimination  
1926 System Program under s. 403.0885 for a term of up to 10 years if  
1927 the facility is meeting the stated goals in its action plan  
1928 adopted pursuant to s. 403.086(7).

1929 Section 19. Present subsections (3) and (4) of section  
1930 403.088, Florida Statutes, are redesignated as subsections (4)  
1931 and (5), respectively, a new subsection (3) is added to that  
1932 section, and paragraph (c) of subsection (2) of that section is  
1933 amended, to read:

1934 403.088 Water pollution operation permits; conditions.—

1935 (2)

1936 (c) A permit shall:

1937 1. Specify the manner, nature, volume, and frequency of the  
1938 discharge permitted;

1939 2. Require proper operation and maintenance of any  
1940 pollution abatement facility by qualified personnel in  
1941 accordance with standards established by the department;

1942 3. Require a deliberate, proactive approach to  
1943 investigating or surveying a significant percentage of the  
1944 domestic wastewater collection system throughout the duration of  
1945 the permit to determine pipe integrity, which must be  
1946 accomplished in an economically feasible manner. The permittee  
1947 shall submit an annual report to the department which details  
1948 facility revenues and expenditures in a manner prescribed by  
1949 department rule. The report must detail any deviation of annual  
1950 expenditures from identified system needs related to inflow and  
1951 infiltration studies; model plans for pipe assessment, repair,  
1952 and replacement; and pipe assessment, repair, and replacement  
1953 required under s. 403.086(7). Substantial compliance with this



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1954 subsection is evidence in mitigation for the purposes of  
1955 assessing penalties pursuant to ss. 403.121 and 403.141;  
1956 4. Contain such additional conditions, requirements, and  
1957 restrictions as the department deems necessary to preserve and  
1958 protect the quality of the receiving waters;  
1959 5.4. Be valid for the period of time specified therein; and  
1960 6.5. Constitute the state National Pollutant Discharge  
1961 Elimination System permit when issued pursuant to the authority  
1962 in s. 403.0885.  
1963 (3) No later than March 1 of each year, the department  
1964 shall submit a report to the Governor, the President of the  
1965 Senate, and the Speaker of the House of Representatives which  
1966 identifies all domestic wastewater treatment facilities that  
1967 experienced a sanitary sewer overflow in the preceding calendar  
1968 year. The report must identify the utility or responsible  
1969 operating entity name, permitted capacity in annual average  
1970 gallons per day, number of overflows, type of water discharged,  
1971 and total volume of sewage released, and, to the extent known  
1972 and available, volume of sewage recovered, volume of sewage  
1973 discharged to surface waters, and cause of the sanitary sewer  
1974 overflow, including whether caused by a third party. The  
1975 department shall include with this report the annual report  
1976 specified under subparagraph (2)(c)3. for each utility that  
1977 experienced an overflow.  
1978 Section 20. Subsection (6) of section 403.0891, Florida  
1979 Statutes, is amended to read:  
1980 403.0891 State, regional, and local stormwater management  
1981 plans and programs.—The department, the water management  
1982 districts, and local governments shall have the responsibility



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1983 for the development of mutually compatible stormwater management  
1984 programs.

1985 (6) The department and the Department of Economic  
1986 Opportunity, in cooperation with local governments in the  
1987 coastal zone, shall develop a model stormwater management  
1988 program that could be adopted by local governments. The model  
1989 program must contain model ordinances that target nutrient  
1990 reduction practices and use green infrastructure. The model  
1991 program shall contain dedicated funding options, including a  
1992 stormwater utility fee system based upon an equitable unit cost  
1993 approach. Funding options shall be designed to generate capital  
1994 to retrofit existing stormwater management systems, build new  
1995 treatment systems, operate facilities, and maintain and service  
1996 debt.

1997 Section 21. Paragraphs (b) and (g) of subsection (2),  
1998 paragraph (b) of subsection (3), and subsection (9) of section  
1999 403.121, Florida Statutes, are amended to read:

2000 403.121 Enforcement; procedure; remedies.—The department  
2001 shall have the following judicial and administrative remedies  
2002 available to it for violations of this chapter, as specified in  
2003 s. 403.161(1).

2004 (2) Administrative remedies:

2005 (b) If the department has reason to believe a violation has  
2006 occurred, it may institute an administrative proceeding to order  
2007 the prevention, abatement, or control of the conditions creating  
2008 the violation or other appropriate corrective action. Except for  
2009 violations involving hazardous wastes, asbestos, or underground  
2010 injection, the department shall proceed administratively in all  
2011 cases in which the department seeks administrative penalties



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2012 that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated  
2013 in accordance with subsections (3), (4), (5), (6), and (7).  
2014 Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty  
2015 assessed pursuant to subsection (3), subsection (4), or  
2016 subsection (5) against a public water system serving a  
2017 population of more than 10,000 shall be not less than \$1,000 per  
2018 day per violation. The department shall not impose  
2019 administrative penalties in excess of \$50,000 ~~\$10,000~~ in a  
2020 notice of violation. The department shall not have more than one  
2021 notice of violation seeking administrative penalties pending  
2022 against the same party at the same time unless the violations  
2023 occurred at a different site or the violations were discovered  
2024 by the department subsequent to the filing of a previous notice  
2025 of violation.

2026 (g) Nothing herein shall be construed as preventing any  
2027 other legal or administrative action in accordance with law.  
2028 Nothing in this subsection shall limit the department's  
2029 authority provided in ss. 403.131, 403.141, and this section to  
2030 judicially pursue injunctive relief. When the department  
2031 exercises its authority to judicially pursue injunctive relief,  
2032 penalties in any amount up to the statutory maximum sought by  
2033 the department must be pursued as part of the state court action  
2034 and not by initiating a separate administrative proceeding. The  
2035 department retains the authority to judicially pursue penalties  
2036 in excess of \$50,000 ~~\$10,000~~ for violations not specifically  
2037 included in the administrative penalty schedule, or for multiple  
2038 or multiday violations alleged to exceed a total of \$50,000  
2039 ~~\$10,000~~. The department also retains the authority provided in  
2040 ss. 403.131, 403.141, and this section to judicially pursue



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2041 injunctive relief and damages, if a notice of violation seeking  
2042 the imposition of administrative penalties has not been issued.  
2043 The department has the authority to enter into a settlement,  
2044 either before or after initiating a notice of violation, and the  
2045 settlement may include a penalty amount different from the  
2046 administrative penalty schedule. Any case filed in state court  
2047 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in  
2048 penalties may be settled in the court action for less than  
2049 \$50,000 ~~\$10,000~~.

2050 (3) Except for violations involving hazardous wastes,  
2051 asbestos, or underground injection, administrative penalties  
2052 must be calculated according to the following schedule:

2053 (b) For failure to obtain a required wastewater permit,  
2054 other than a permit required for surface water discharge, the  
2055 department shall assess a penalty of \$2,000 ~~\$1,000~~. For a  
2056 domestic or industrial wastewater violation not involving a  
2057 surface water or groundwater quality violation, the department  
2058 shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or  
2059 unauthorized discharge or effluent-limitation exceedance or  
2060 failure to comply with s. 403.061(14) or s. 403.086(7) or rules  
2061 adopted thereunder. For an unpermitted or unauthorized discharge  
2062 or effluent-limitation exceedance that resulted in a surface  
2063 water or groundwater quality violation, the department shall  
2064 assess a penalty of \$10,000 ~~\$5,000~~.

2065 (9) The administrative penalties assessed for any  
2066 particular violation shall not exceed \$10,000 ~~\$5,000~~ against any  
2067 one violator, unless the violator has a history of  
2068 noncompliance, the economic benefit of the violation as  
2069 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are



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2070 multiday violations. The total administrative penalties shall  
2071 not exceed \$50,000 ~~\$10,000~~ per assessment for all violations  
2072 attributable to a specific person in the notice of violation.

2073 Section 22. Subsection (7) of section 403.1835, Florida  
2074 Statutes, is amended to read:

2075 403.1835 Water pollution control financial assistance.—

2076 (7) Eligible projects must be given priority according to  
2077 the extent each project is intended to remove, mitigate, or  
2078 prevent adverse effects on surface or ground water quality and  
2079 public health. The relative costs of achieving environmental and  
2080 public health benefits must be taken into consideration during  
2081 the department's assignment of project priorities. The  
2082 department shall adopt a priority system by rule. In developing  
2083 the priority system, the department shall give priority to  
2084 projects that:

2085 (a) Eliminate public health hazards;

2086 (b) Enable compliance with laws requiring the elimination  
2087 of discharges to specific water bodies, including the  
2088 requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic  
2089 wastewater ocean outfalls;

2090 (c) Assist in the implementation of total maximum daily  
2091 loads adopted under s. 403.067;

2092 (d) Enable compliance with other pollution control  
2093 requirements, including, but not limited to, toxics control,  
2094 wastewater residuals management, and reduction of nutrients and  
2095 bacteria;

2096 (e) Assist in the implementation of surface water  
2097 improvement and management plans and pollutant load reduction  
2098 goals developed under state water policy;





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2099 (f) Promote reclaimed water reuse;

2100 (g) Eliminate failing onsite sewage treatment and disposal  
2101 systems or those that are causing environmental damage; or

2102 (h) Reduce pollutants to and otherwise promote the  
2103 restoration of Florida's surface and ground waters.

2104 (i) Implement the requirements of s. 403.086(7) or s.  
2105 403.088(2)(c).

2106 (j) Promote efficiency by planning for the installation of  
2107 wastewater transmission facilities to be constructed  
2108 concurrently with other construction projects occurring within  
2109 or along a transportation facility right-of-way.

2110 Section 23. Paragraph (b) of subsection (3) of section  
2111 403.1838, Florida Statutes, is amended to read:

2112 403.1838 Small Community Sewer Construction Assistance  
2113 Act.—

2114 (3)

2115 (b) The rules of the Environmental Regulation Commission  
2116 must:

2117 1. Require that projects to plan, design, construct,  
2118 upgrade, or replace wastewater collection, transmission,  
2119 treatment, disposal, and reuse facilities be cost-effective,  
2120 environmentally sound, permittable, and implementable.

2121 2. Require appropriate user charges, connection fees, and  
2122 other charges sufficient to ensure the long-term operation,  
2123 maintenance, and replacement of the facilities constructed under  
2124 each grant.

2125 3. Require grant applications to be submitted on  
2126 appropriate forms with appropriate supporting documentation, and  
2127 require records to be maintained.



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2128           4. Establish a system to determine eligibility of grant  
2129 applications.

2130           5. Establish a system to determine the relative priority of  
2131 grant applications. The system must consider public health  
2132 protection and water pollution prevention or abatement and must  
2133 prioritize projects that plan for the installation of wastewater  
2134 transmission facilities to be constructed concurrently with  
2135 other construction projects occurring within or along a  
2136 transportation facility right-of-way.

2137           6. Establish requirements for competitive procurement of  
2138 engineering and construction services, materials, and equipment.

2139           7. Provide for termination of grants when program  
2140 requirements are not met.

2141           Section 24. Subsection (9) is added to section 403.412,  
2142 Florida Statutes, to read:

2143           403.412 Environmental Protection Act.—

2144           (9) (a) A local government regulation, ordinance, code,  
2145 rule, comprehensive plan, charter, or any other provision of law  
2146 may not recognize or grant any legal rights to a plant, an  
2147 animal, a body of water, or any other part of the natural  
2148 environment that is not a person or political subdivision as  
2149 defined in s. 1.01 or grant such person or political subdivision  
2150 any specific rights relating to the natural environment not  
2151 otherwise authorized in general law or specifically granted in  
2152 the State Constitution.

2153           (b) This subsection does not limit the power of an  
2154 adversely affected party to challenge the consistency of a  
2155 development order with a comprehensive plan as provided in s.  
2156 163.3215 or to file an action for injunctive relief to enforce



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2157 the terms of a development agreement or challenge compliance of  
2158 the agreement as provided in s. 163.3243.

2159 (c) This subsection does not limit the standing of the  
2160 Department of Legal Affairs, a political subdivision or  
2161 municipality of the state, or a citizen of the state to maintain  
2162 an action for injunctive relief as provided in this section.

2163 Section 25. The Legislature determines and declares that  
2164 this act fulfills an important state interest.

2165 Section 26. Effective July 1, 2021, subsection (5) of  
2166 section 153.54, Florida Statutes, is amended to read:

2167 153.54 Preliminary report by county commissioners with  
2168 respect to creation of proposed district.—Upon receipt of a  
2169 petition duly signed by not less than 25 qualified electors who  
2170 are also freeholders residing within an area proposed to be  
2171 incorporated into a water and sewer district pursuant to this  
2172 law and describing in general terms the proposed boundaries of  
2173 such proposed district, the board of county commissioners if it  
2174 shall deem it necessary and advisable to create and establish  
2175 such proposed district for the purpose of constructing,  
2176 establishing or acquiring a water system or a sewer system or  
2177 both in and for such district (herein called "improvements"),  
2178 shall first cause a preliminary report to be made which such  
2179 report together with any other relevant or pertinent matters,  
2180 shall include at least the following:

2181 (5) For the construction of a new proposed central sewerage  
2182 system or the extension of an existing sewerage system that was  
2183 not previously approved, the report shall include a study that  
2184 includes the available information from the Department of  
2185 Environmental Protection ~~Health~~ on the history of onsite sewage



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2186 treatment and disposal systems currently in use in the area and  
2187 a comparison of the projected costs to the owner of a typical  
2188 lot or parcel of connecting to and using the proposed sewerage  
2189 system versus installing, operating, and properly maintaining an  
2190 onsite sewage treatment and disposal system that is approved by  
2191 the Department of Environmental Protection ~~Health~~ and that  
2192 provides for the comparable level of environmental and health  
2193 protection as the proposed central sewerage system;  
2194 consideration of the local authority's obligations or reasonably  
2195 anticipated obligations for water body cleanup and protection  
2196 under state or federal programs, including requirements for  
2197 water bodies listed under s. 303(d) of the Clean Water Act, Pub.  
2198 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors  
2199 deemed relevant by the local authority.

2200  
2201 Such report shall be filed in the office of the clerk of the  
2202 circuit court and shall be open for the inspection of any  
2203 taxpayer, property owner, qualified elector or any other  
2204 interested or affected person.

2205 Section 27. Effective July 1, 2021, paragraph (c) of  
2206 subsection (2) of section 153.73, Florida Statutes, is amended  
2207 to read:

2208 153.73 Assessable improvements; levy and payment of special  
2209 assessments.—Any district may provide for the construction or  
2210 reconstruction of assessable improvements as defined in s.  
2211 153.52, and for the levying of special assessments upon  
2212 benefited property for the payment thereof, under ~~the provisions~~  
2213 ~~of~~ this section.

2214 (2)



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2215 (c) For the construction of a new proposed central sewerage  
2216 system or the extension of an existing sewerage system that was  
2217 not previously approved, the report shall include a study that  
2218 includes the available information from the Department of  
2219 Environmental Protection Health on the history of onsite sewage  
2220 treatment and disposal systems currently in use in the area and  
2221 a comparison of the projected costs to the owner of a typical  
2222 lot or parcel of connecting to and using the proposed sewerage  
2223 system versus installing, operating, and properly maintaining an  
2224 onsite sewage treatment and disposal system that is approved by  
2225 the Department of Environmental Protection Health and that  
2226 provides for the comparable level of environmental and health  
2227 protection as the proposed central sewerage system;  
2228 consideration of the local authority's obligations or reasonably  
2229 anticipated obligations for water body cleanup and protection  
2230 under state or federal programs, including requirements for  
2231 water bodies listed under s. 303(d) of the Clean Water Act, Pub.  
2232 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors  
2233 deemed relevant by the local authority.

2234 Section 28. Effective July 1, 2021, subsection (2) of  
2235 section 163.3180, Florida Statutes, is amended to read:

2236 163.3180 Concurrency.—

2237 (2) Consistent with public health and safety, sanitary  
2238 sewer, solid waste, drainage, adequate water supplies, and  
2239 potable water facilities shall be in place and available to  
2240 serve new development no later than the issuance by the local  
2241 government of a certificate of occupancy or its functional  
2242 equivalent. Prior to approval of a building permit or its  
2243 functional equivalent, the local government shall consult with



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2244 the applicable water supplier to determine whether adequate  
2245 water supplies to serve the new development will be available no  
2246 later than the anticipated date of issuance by the local  
2247 government of a certificate of occupancy or its functional  
2248 equivalent. A local government may meet the concurrency  
2249 requirement for sanitary sewer through the use of onsite sewage  
2250 treatment and disposal systems approved by the Department of  
2251 Environmental Protection ~~Health~~ to serve new development.

2252 Section 29. Effective July 1, 2021, subsection (3) of  
2253 section 180.03, Florida Statutes, is amended to read:

2254 180.03 Resolution or ordinance proposing construction or  
2255 extension of utility; objections to same.-

2256 (3) For the construction of a new proposed central sewerage  
2257 system or the extension of an existing central sewerage system  
2258 that was not previously approved, the report shall include a  
2259 study that includes the available information from the  
2260 Department of Environmental Protection ~~Health~~ on the history of  
2261 onsite sewage treatment and disposal systems currently in use in  
2262 the area and a comparison of the projected costs to the owner of  
2263 a typical lot or parcel of connecting to and using the proposed  
2264 central sewerage system versus installing, operating, and  
2265 properly maintaining an onsite sewage treatment and disposal  
2266 system that is approved by the Department of Environmental  
2267 Protection ~~Health~~ and that provides for the comparable level of  
2268 environmental and health protection as the proposed central  
2269 sewerage system; consideration of the local authority's  
2270 obligations or reasonably anticipated obligations for water body  
2271 cleanup and protection under state or federal programs,  
2272 including requirements for water bodies listed under s. 303(d)



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2273 of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251  
2274 et seq.; and other factors deemed relevant by the local  
2275 authority. The results of such a study shall be included in the  
2276 resolution or ordinance required under subsection (1).

2277 Section 30. Subsections (2), (3), and (6) of section  
2278 311.105, Florida Statutes, are amended to read:

2279 311.105 Florida Seaport Environmental Management Committee;  
2280 permitting; mitigation.—

2281 (2) Each application for a permit authorized pursuant to s.  
2282 403.061(38) ~~s. 403.061(37)~~ must include:

2283 (a) A description of maintenance dredging activities to be  
2284 conducted and proposed methods of dredged-material management.

2285 (b) A characterization of the materials to be dredged and  
2286 the materials within dredged-material management sites.

2287 (c) A description of dredged-material management sites and  
2288 plans.

2289 (d) A description of measures to be undertaken, including  
2290 environmental compliance monitoring, to minimize adverse  
2291 environmental effects of maintenance dredging and dredged-  
2292 material management.

2293 (e) Such scheduling information as is required to  
2294 facilitate state supplementary funding of federal maintenance  
2295 dredging and dredged-material management programs consistent  
2296 with beach restoration criteria of the Department of  
2297 Environmental Protection.

2298 (3) Each application for a permit authorized pursuant to s.  
2299 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~  
2300 paragraphs (2) (b)-(e) and the following:

2301 (a) A description of dredging and dredged-material



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2302 management and other related activities associated with port  
2303 development, including the expansion of navigation channels,  
2304 dredged-material management sites, port harbors, turning basins,  
2305 harbor berths, and associated facilities.

2306 (b) A discussion of environmental mitigation as is proposed  
2307 for dredging and dredged-material management for port  
2308 development, including the expansion of navigation channels,  
2309 dredged-material management sites, port harbors, turning basins,  
2310 harbor berths, and associated facilities.

2311 (6) Dredged-material management activities authorized  
2312 pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~  
2313 shall be incorporated into port master plans developed pursuant  
2314 to s. 163.3178(2)(k).

2315 Section 31. Paragraph (d) of subsection (1) of section  
2316 327.46, Florida Statutes, is amended to read:

2317 327.46 Boating-restricted areas.—

2318 (1) Boating-restricted areas, including, but not limited  
2319 to, restrictions of vessel speeds and vessel traffic, may be  
2320 established on the waters of this state for any purpose  
2321 necessary to protect the safety of the public if such  
2322 restrictions are necessary based on boating accidents,  
2323 visibility, hazardous currents or water levels, vessel traffic  
2324 congestion, or other navigational hazards or to protect  
2325 seagrasses on privately owned submerged lands.

2326 (d) Owners of private submerged lands that are adjacent to  
2327 Outstanding Florida Waters, as defined in s. 403.061(28) ~~s.~~  
2328 ~~403.061(27)~~, or an aquatic preserve established under ss.  
2329 258.39-258.399 may request that the commission establish  
2330 boating-restricted areas solely to protect any seagrass and





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2331 contiguous seagrass habitat within their private property  
2332 boundaries from seagrass scarring due to propeller dredging.  
2333 Owners making a request pursuant to this paragraph must  
2334 demonstrate to the commission clear ownership of the submerged  
2335 lands. The commission shall adopt rules to implement this  
2336 paragraph, including, but not limited to, establishing an  
2337 application process and criteria for meeting the requirements of  
2338 this paragraph. Each approved boating-restricted area shall be  
2339 established by commission rule. For marking boating-restricted  
2340 zones established pursuant to this paragraph, owners of  
2341 privately submerged lands shall apply to the commission for a  
2342 uniform waterway marker permit in accordance with ss. 327.40 and  
2343 327.41, and shall be responsible for marking the boating-  
2344 restricted zone in accordance with the terms of the permit.

2345 Section 32. Paragraph (d) of subsection (3) of section  
2346 373.250, Florida Statutes, is amended to read:

2347 373.250 Reuse of reclaimed water.-

2348 (3)

2349 (d) The South Florida Water Management District shall  
2350 require the use of reclaimed water made available by the  
2351 elimination of wastewater ocean outfall discharges as provided  
2352 for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or  
2353 groundwater when the use of reclaimed water is available; is  
2354 environmentally, economically, and technically feasible; and is  
2355 of such quality and reliability as is necessary to the user.  
2356 Such reclaimed water may also be required in lieu of other  
2357 alternative sources. In determining whether to require such  
2358 reclaimed water in lieu of other alternative sources, the water  
2359 management district shall consider existing infrastructure



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2360 investments in place or obligated to be constructed by an  
2361 executed contract or similar binding agreement as of July 1,  
2362 2011, for the development of other alternative sources.

2363 Section 33. Subsection (9) of section 373.414, Florida  
2364 Statutes, is amended to read:

2365 373.414 Additional criteria for activities in surface  
2366 waters and wetlands.-

2367 (9) The department and the governing boards, on or before  
2368 July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~  
2369 this section, relying primarily on the existing rules of the  
2370 department and the water management districts, into the rules  
2371 governing the management and storage of surface waters. Such  
2372 rules shall seek to achieve a statewide, coordinated and  
2373 consistent permitting approach to activities regulated under  
2374 this part. Variations in permitting criteria in the rules of  
2375 individual water management districts or the department shall  
2376 only be provided to address differing physical or natural  
2377 characteristics. Such rules adopted pursuant to this subsection  
2378 shall include the special criteria adopted pursuant to s.  
2379 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria  
2380 adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules  
2381 shall include a provision requiring that a notice of intent to  
2382 deny or a permit denial based upon this section shall contain an  
2383 explanation of the reasons for such denial and an explanation,  
2384 in general terms, of what changes, if any, are necessary to  
2385 address such reasons for denial. Such rules may establish  
2386 exemptions and general permits, if such exemptions and general  
2387 permits do not allow significant adverse impacts to occur  
2388 individually or cumulatively. Such rules may require submission



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2389 of proof of financial responsibility which may include the  
2390 posting of a bond or other form of surety prior to the  
2391 commencement of construction to provide reasonable assurance  
2392 that any activity permitted pursuant to this section, including  
2393 any mitigation for such permitted activity, will be completed in  
2394 accordance with the terms and conditions of the permit once the  
2395 construction is commenced. Until rules adopted pursuant to this  
2396 subsection become effective, existing rules adopted under this  
2397 part and rules adopted pursuant to the authority of ss. 403.91-  
2398 403.929 shall be deemed authorized under this part and shall  
2399 remain in full force and effect. Neither the department nor the  
2400 governing boards are limited or prohibited from amending any  
2401 such rules.

2402 Section 34. Paragraph (b) of subsection (4) of section  
2403 373.705, Florida Statutes, is amended to read:

2404 373.705 Water resource development; water supply  
2405 development.-

2406 (4)

2407 (b) Water supply development projects that meet the  
2408 criteria in paragraph (a) and that meet one or more of the  
2409 following additional criteria shall be given first consideration  
2410 for state or water management district funding assistance:

2411 1. The project brings about replacement of existing sources  
2412 in order to help implement a minimum flow or minimum water  
2413 level;

2414 2. The project implements reuse that assists in the  
2415 elimination of domestic wastewater ocean outfalls as provided in  
2416 s. 403.086(10) ~~s. 403.086(9)~~; or

2417 3. The project reduces or eliminates the adverse effects of



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2418 competition between legal users and the natural system.  
2419 Section 35. Paragraph (f) of subsection (8) of section  
2420 373.707, Florida Statutes, is amended to read:  
2421 373.707 Alternative water supply development.—  
2422 (8)  
2423 (f) The governing boards shall determine those projects  
2424 that will be selected for financial assistance. The governing  
2425 boards may establish factors to determine project funding;  
2426 however, significant weight shall be given to the following  
2427 factors:  
2428 1. Whether the project provides substantial environmental  
2429 benefits by preventing or limiting adverse water resource  
2430 impacts.  
2431 2. Whether the project reduces competition for water  
2432 supplies.  
2433 3. Whether the project brings about replacement of  
2434 traditional sources in order to help implement a minimum flow or  
2435 level or a reservation.  
2436 4. Whether the project will be implemented by a consumptive  
2437 use permittee that has achieved the targets contained in a goal-  
2438 based water conservation program approved pursuant to s.  
2439 373.227.  
2440 5. The quantity of water supplied by the project as  
2441 compared to its cost.  
2442 6. Projects in which the construction and delivery to end  
2443 users of reuse water is a major component.  
2444 7. Whether the project will be implemented by a  
2445 multijurisdictional water supply entity or regional water supply  
2446 authority.



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2447           8. Whether the project implements reuse that assists in the  
2448 elimination of domestic wastewater ocean outfalls as provided in  
2449 s. 403.086(10) ~~s. 403.086(9)~~.

2450           9. Whether the county or municipality, or the multiple  
2451 counties or municipalities, in which the project is located has  
2452 implemented a high-water recharge protection tax assessment  
2453 program as provided in s. 193.625.

2454           Section 36. Subsection (4) of section 373.709, Florida  
2455 Statutes, is amended to read:

2456           373.709 Regional water supply planning.—

2457           (4) The South Florida Water Management District shall  
2458 include in its regional water supply plan water resource and  
2459 water supply development projects that promote the elimination  
2460 of wastewater ocean outfalls as provided in s. 403.086(10) ~~s.~~  
2461 ~~403.086(9)~~.

2462           Section 37. Effective July 1, 2021, subsection (3) of  
2463 section 373.807, Florida Statutes, is amended to read:

2464           373.807 Protection of water quality in Outstanding Florida  
2465 Springs.—By July 1, 2016, the department shall initiate  
2466 assessment, pursuant to s. 403.067(3), of Outstanding Florida  
2467 Springs or spring systems for which an impairment determination  
2468 has not been made under the numeric nutrient standards in effect  
2469 for spring vents. Assessments must be completed by July 1, 2018.

2470           (3) As part of a basin management action plan that includes  
2471 an Outstanding Florida Spring, the department, ~~the Department of~~  
2472 ~~Health~~, relevant local governments, and relevant local public  
2473 and private wastewater utilities shall develop an onsite sewage  
2474 treatment and disposal system remediation plan for a spring if  
2475 the department determines onsite sewage treatment and disposal



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2476 systems within a priority focus area contribute at least 20  
2477 percent of nonpoint source nitrogen pollution or if the  
2478 department determines remediation is necessary to achieve the  
2479 total maximum daily load. The plan shall identify cost-effective  
2480 and financially feasible projects necessary to reduce the  
2481 nutrient impacts from onsite sewage treatment and disposal  
2482 systems and shall be completed and adopted as part of the basin  
2483 management action plan no later than the first 5-year milestone  
2484 required by subparagraph (1)(b)8. The department is the lead  
2485 agency in coordinating the preparation of and the adoption of  
2486 the plan. The department shall:

2487 (a) Collect and evaluate credible scientific information on  
2488 the effect of nutrients, particularly forms of nitrogen, on  
2489 springs and springs systems; and

2490 (b) Develop a public education plan to provide area  
2491 residents with reliable, understandable information about onsite  
2492 sewage treatment and disposal systems and springs.

2493  
2494 In addition to the requirements in s. 403.067, the plan shall  
2495 include options for repair, upgrade, replacement, drainfield  
2496 modification, addition of effective nitrogen reducing features,  
2497 connection to a central sewerage system, or other action for an  
2498 onsite sewage treatment and disposal system or group of systems  
2499 within a priority focus area that contribute at least 20 percent  
2500 of nonpoint source nitrogen pollution or if the department  
2501 determines remediation is necessary to achieve a total maximum  
2502 daily load. For these systems, the department shall include in  
2503 the plan a priority ranking for each system or group of systems  
2504 that requires remediation and shall award funds to implement the



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2505 remediation projects contingent on an appropriation in the  
2506 General Appropriations Act, which may include all or part of the  
2507 costs necessary for repair, upgrade, replacement, drainfield  
2508 modification, addition of effective nitrogen reducing features,  
2509 initial connection to a central sewerage system, or other  
2510 action. In awarding funds, the department may consider expected  
2511 nutrient reduction benefit per unit cost, size and scope of  
2512 project, relative local financial contribution to the project,  
2513 and the financial impact on property owners and the community.  
2514 The department may waive matching funding requirements for  
2515 proposed projects within an area designated as a rural area of  
2516 opportunity under s. 288.0656.

2517 Section 38. Paragraph (k) of subsection (1) of section  
2518 376.307, Florida Statutes, is amended to read:

2519 376.307 Water Quality Assurance Trust Fund.—

2520 (1) The Water Quality Assurance Trust Fund is intended to  
2521 serve as a broad-based fund for use in responding to incidents  
2522 of contamination that pose a serious danger to the quality of  
2523 groundwater and surface water resources or otherwise pose a  
2524 serious danger to the public health, safety, or welfare. Moneys  
2525 in this fund may be used:

2526 (k) For funding activities described in s. 403.086(10) ~~s.~~  
2527 ~~403.086(9)~~ which are authorized for implementation under the  
2528 Leah Schad Memorial Ocean Outfall Program.

2529 Section 39. Paragraph (i) of subsection (2), paragraph (b)  
2530 of subsection (4), paragraph (j) of subsection (7), and  
2531 paragraph (a) of subsection (9) of section 380.0552, Florida  
2532 Statutes, are amended to read:

2533 380.0552 Florida Keys Area; protection and designation as



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2534 area of critical state concern.—

2535 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature  
2536 to:

2537 (i) Protect and improve the nearshore water quality of the  
2538 Florida Keys through federal, state, and local funding of water  
2539 quality improvement projects, including the construction and  
2540 operation of wastewater management facilities that meet the  
2541 requirements of ss. 381.0065(4)(1) and 403.086(11) ~~403.086(10)~~,  
2542 as applicable.

2543 (4) REMOVAL OF DESIGNATION.—

2544 (b) Beginning November 30, 2010, the state land planning  
2545 agency shall annually submit a written report to the  
2546 Administration Commission describing the progress of the Florida  
2547 Keys Area toward completing the work program tasks specified in  
2548 commission rules. The land planning agency shall recommend  
2549 removing the Florida Keys Area from being designated as an area  
2550 of critical state concern to the commission if it determines  
2551 that:

2552 1. All of the work program tasks have been completed,  
2553 including construction of, operation of, and connection to  
2554 central wastewater management facilities pursuant to s.  
2555 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage  
2556 treatment and disposal systems pursuant to s. 381.0065(4)(1);

2557 2. All local comprehensive plans and land development  
2558 regulations and the administration of such plans and regulations  
2559 are adequate to protect the Florida Keys Area, fulfill the  
2560 legislative intent specified in subsection (2), and are  
2561 consistent with and further the principles guiding development;  
2562 and





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2563           3. A local government has adopted a resolution at a public  
2564 hearing recommending the removal of the designation.

2565           (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,  
2566 and local agencies and units of government in the Florida Keys  
2567 Area shall coordinate their plans and conduct their programs and  
2568 regulatory activities consistent with the principles for guiding  
2569 development as specified in chapter 27F-8, Florida  
2570 Administrative Code, as amended effective August 23, 1984, which  
2571 is adopted and incorporated herein by reference. For the  
2572 purposes of reviewing the consistency of the adopted plan, or  
2573 any amendments to that plan, with the principles for guiding  
2574 development, and any amendments to the principles, the  
2575 principles shall be construed as a whole and specific provisions  
2576 may not be construed or applied in isolation from the other  
2577 provisions. However, the principles for guiding development are  
2578 repealed 18 months from July 1, 1986. After repeal, any plan  
2579 amendments must be consistent with the following principles:

2580           (j) Ensuring the improvement of nearshore water quality by  
2581 requiring the construction and operation of wastewater  
2582 management facilities that meet the requirements of ss.  
2583 381.0065(4)(1) and s. 403.086(11) ~~403.086(10)~~, as applicable,  
2584 and by directing growth to areas served by central wastewater  
2585 treatment facilities through permit allocation systems.

2586           (9) MODIFICATION TO PLANS AND REGULATIONS.—

2587           (a) Any land development regulation or element of a local  
2588 comprehensive plan in the Florida Keys Area may be enacted,  
2589 amended, or rescinded by a local government, but the enactment,  
2590 amendment, or rescission becomes effective only upon approval by  
2591 the state land planning agency. The state land planning agency



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2592 shall review the proposed change to determine if it is in  
2593 compliance with the principles for guiding development specified  
2594 in chapter 27F-8, Florida Administrative Code, as amended  
2595 effective August 23, 1984, and must approve or reject the  
2596 requested changes within 60 days after receipt. Amendments to  
2597 local comprehensive plans in the Florida Keys Area must also be  
2598 reviewed for compliance with the following:

2599       1. Construction schedules and detailed capital financing  
2600 plans for wastewater management improvements in the annually  
2601 adopted capital improvements element, and standards for the  
2602 construction of wastewater treatment and disposal facilities or  
2603 collection systems that meet or exceed the criteria in s.  
2604 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal  
2605 facilities or s. 381.0065(4)(1) for onsite sewage treatment and  
2606 disposal systems.

2607       2. Goals, objectives, and policies to protect public safety  
2608 and welfare in the event of a natural disaster by maintaining a  
2609 hurricane evacuation clearance time for permanent residents of  
2610 no more than 24 hours. The hurricane evacuation clearance time  
2611 shall be determined by a hurricane evacuation study conducted in  
2612 accordance with a professionally accepted methodology and  
2613 approved by the state land planning agency.

2614       Section 40. Effective July 1, 2021, subsections (7) and  
2615 (18) of section 381.006, Florida Statutes, are amended to read:

2616       381.006 Environmental health.—The department shall conduct  
2617 an environmental health program as part of fulfilling the  
2618 state's public health mission. The purpose of this program is to  
2619 detect and prevent disease caused by natural and manmade factors  
2620 in the environment. The environmental health program shall



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2621 include, but not be limited to:

2622 ~~(7) An onsite sewage treatment and disposal function.~~

2623 (17)~~(18)~~ A food service inspection function for domestic  
2624 violence centers that are certified by the Department of  
2625 Children and Families and monitored by the Florida Coalition  
2626 Against Domestic Violence under part XII of chapter 39 and group  
2627 care homes as described in subsection (15) ~~(16)~~, which shall be  
2628 conducted annually and be limited to the requirements in  
2629 department rule applicable to community-based residential  
2630 facilities with five or fewer residents.

2631

2632 The department may adopt rules to carry out the provisions of  
2633 this section.

2634 Section 41. Effective July 1, 2021, subsection (1) of  
2635 section 381.0061, Florida Statutes, is amended to read:

2636 381.0061 Administrative fines.—

2637 (1) In addition to any administrative action authorized by  
2638 chapter 120 or by other law, the department may impose a fine,  
2639 which ~~may shall~~ not exceed \$500 for each violation, for a  
2640 violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s.  
2641 381.0066, s. 381.0072, or part III of chapter 489, for a  
2642 violation of any rule adopted under this chapter, or for a  
2643 violation of ~~any of the provisions of~~ chapter 386. Notice of  
2644 intent to impose such fine shall be given by the department to  
2645 the alleged violator. Each day that a violation continues may  
2646 constitute a separate violation.

2647 Section 42. Effective July 1, 2021, subsection (1) of  
2648 section 381.0064, Florida Statutes, is amended to read:

2649 381.0064 Continuing education courses for persons



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2650 installing or servicing septic tanks.-

2651 (1) The Department of Environmental Protection ~~Health~~ shall  
2652 establish a program for continuing education which meets the  
2653 purposes of ss. 381.0101 and 489.554 regarding the public health  
2654 and environmental effects of onsite sewage treatment and  
2655 disposal systems and any other matters the department determines  
2656 desirable for the safe installation and use of onsite sewage  
2657 treatment and disposal systems. The department may charge a fee  
2658 to cover the cost of such program.

2659 Section 43. Effective July 1, 2021, paragraph (d) of  
2660 subsection (7), subsection (8), and paragraphs (b), (c), and (d)  
2661 of subsection (9) of section 381.00651, Florida Statutes, are  
2662 amended to read:

2663 381.00651 Periodic evaluation and assessment of onsite  
2664 sewage treatment and disposal systems.-

2665 (7) The following procedures shall be used for conducting  
2666 evaluations:

2667 (d) *Assessment procedure.*-All evaluation procedures used by  
2668 a qualified contractor shall be documented in the environmental  
2669 health database of the Department of Environmental Protection  
2670 ~~Health~~. The qualified contractor shall provide a copy of a  
2671 written, signed evaluation report to the property owner upon  
2672 completion of the evaluation and to the county health department  
2673 within 30 days after the evaluation. The report must ~~shall~~  
2674 contain the name and license number of the company providing the  
2675 report. A copy of the evaluation report shall be retained by the  
2676 local county health department for a minimum of 5 years and  
2677 until a subsequent inspection report is filed. The front cover  
2678 of the report must identify any system failure and include a



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2679 clear and conspicuous notice to the owner that the owner has a  
2680 right to have any remediation of the failure performed by a  
2681 qualified contractor other than the contractor performing the  
2682 evaluation. The report must further identify any crack, leak,  
2683 improper fit, or other defect in the tank, manhole, or lid, and  
2684 any other damaged or missing component; any sewage or effluent  
2685 visible on the ground or discharging to a ditch or other surface  
2686 water body; any downspout, stormwater, or other source of water  
2687 directed onto or toward the system; and any other maintenance  
2688 need or condition of the system at the time of the evaluation  
2689 which, in the opinion of the qualified contractor, would  
2690 possibly interfere with or restrict any future repair or  
2691 modification to the existing system. The report shall conclude  
2692 with an overall assessment of the fundamental operational  
2693 condition of the system.

2694 (8) The county health department, in coordination with the  
2695 department, shall administer any evaluation program on behalf of  
2696 a county, or a municipality within the county, that has adopted  
2697 an evaluation program pursuant to this section. In order to  
2698 administer the evaluation program, the county or municipality,  
2699 in consultation with the county health department, may develop a  
2700 reasonable fee schedule to be used solely to pay for the costs  
2701 of administering the evaluation program. Such a fee schedule  
2702 shall be identified in the ordinance that adopts the evaluation  
2703 program. When arriving at a reasonable fee schedule, the  
2704 estimated annual revenues to be derived from fees may not exceed  
2705 reasonable estimated annual costs of the program. Fees shall be  
2706 assessed to the system owner during an inspection and separately  
2707 identified on the invoice of the qualified contractor. Fees



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2708 shall be remitted by the qualified contractor to the county  
2709 health department. The county health department's administrative  
2710 responsibilities include the following:

2711 (a) Providing a notice to the system owner at least 60 days  
2712 before the system is due for an evaluation. The notice may  
2713 include information on the proper maintenance of onsite sewage  
2714 treatment and disposal systems.

2715 (b) In consultation with the department ~~of Health,~~  
2716 providing uniform disciplinary procedures and penalties for  
2717 qualified contractors who do not comply with the requirements of  
2718 the adopted ordinance, including, but not limited to, failure to  
2719 provide the evaluation report as required in this subsection to  
2720 the system owner and the county health department. Only the  
2721 county health department may assess penalties against system  
2722 owners for failure to comply with the adopted ordinance,  
2723 consistent with existing requirements of law.

2724 (9)

2725 (b) Upon receipt of the notice under paragraph (a), the  
2726 department ~~of Environmental Protection~~ shall, within existing  
2727 resources, notify the county or municipality of the potential  
2728 use of, and access to, program funds under the Clean Water State  
2729 Revolving Fund or s. 319 of the Clean Water Act, provide  
2730 guidance in the application process to receive such moneys, and  
2731 provide advice and technical assistance to the county or  
2732 municipality on how to establish a low-interest revolving loan  
2733 program or how to model a revolving loan program after the low-  
2734 interest loan program of the Clean Water State Revolving Fund.  
2735 This paragraph does not obligate the department ~~of Environmental~~  
2736 ~~Protection~~ to provide any county or municipality with money to



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2737 fund such programs.

2738 (c) The department ~~of Health~~ may not adopt any rule that  
2739 alters ~~the provisions of~~ this section.

2740 (d) The department ~~of Health~~ must allow county health  
2741 departments and qualified contractors access to the  
2742 environmental health database to track relevant information and  
2743 assimilate data from assessment and evaluation reports of the  
2744 overall condition of onsite sewage treatment and disposal  
2745 systems. The environmental health database must be used by  
2746 contractors to report each service and evaluation event and by a  
2747 county health department to notify owners of onsite sewage  
2748 treatment and disposal systems when evaluations are due. Data  
2749 and information must be recorded and updated as service and  
2750 evaluations are conducted and reported.

2751 Section 44. Effective July 1, 2021, paragraph (g) of  
2752 subsection (1) of section 381.0101, Florida Statutes, is amended  
2753 to read:

2754 381.0101 Environmental health professionals.—

2755 (1) DEFINITIONS.—As used in this section:

2756 (g) "Primary environmental health program" means those  
2757 programs determined by the department to be essential for  
2758 providing basic environmental and sanitary protection to the  
2759 public. At a minimum, these programs shall include food  
2760 protection program work ~~and onsite sewage treatment and disposal~~  
2761 ~~system evaluations.~~

2762 Section 45. Section 403.08601, Florida Statutes, is amended  
2763 to read:

2764 403.08601 Leah Schad Memorial Ocean Outfall Program.—The  
2765 Legislature declares that as funds become available the state



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2766 may assist the local governments and agencies responsible for  
2767 implementing the Leah Schad Memorial Ocean Outfall Program  
2768 pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from  
2769 other sources provided for in law, the General Appropriations  
2770 Act, from gifts designated for implementation of the plan from  
2771 individuals, corporations, or other entities, or federal funds  
2772 appropriated by Congress for implementation of the plan, may be  
2773 deposited into an account of the Water Quality Assurance Trust  
2774 Fund.

2775 Section 46. Section 403.0871, Florida Statutes, is amended  
2776 to read:

2777 403.0871 Florida Permit Fee Trust Fund.—There is  
2778 established within the department a nonlapsing trust fund to be  
2779 known as the “Florida Permit Fee Trust Fund.” All funds received  
2780 from applicants for permits pursuant to ss. 161.041, 161.053,  
2781 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be  
2782 deposited in the Florida Permit Fee Trust Fund and shall be used  
2783 by the department with the advice and consent of the Legislature  
2784 to supplement appropriations and other funds received by the  
2785 department for the administration of its responsibilities under  
2786 this chapter and chapter 161. In no case shall funds from the  
2787 Florida Permit Fee Trust Fund be used for salary increases  
2788 without the approval of the Legislature.

2789 Section 47. Paragraph (a) of subsection (11) of section  
2790 403.0872, Florida Statutes, is amended to read:

2791 403.0872 Operation permits for major sources of air  
2792 pollution; annual operation license fee.—Provided that program  
2793 approval pursuant to 42 U.S.C. s. 7661a has been received from  
2794 the United States Environmental Protection Agency, beginning





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2795 January 2, 1995, each major source of air pollution, including  
2796 electrical power plants certified under s. 403.511, must obtain  
2797 from the department an operation permit for a major source of  
2798 air pollution under this section. This operation permit is the  
2799 only department operation permit for a major source of air  
2800 pollution required for such source; provided, at the applicant's  
2801 request, the department shall issue a separate acid rain permit  
2802 for a major source of air pollution that is an affected source  
2803 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits  
2804 for major sources of air pollution, except general permits  
2805 issued pursuant to s. 403.814, must be issued in accordance with  
2806 the procedures contained in this section and in accordance with  
2807 chapter 120; however, to the extent that chapter 120 is  
2808 inconsistent with ~~the provisions of~~ this section, the procedures  
2809 contained in this section prevail.

2810 (11) Each major source of air pollution permitted to  
2811 operate in this state must pay between January 15 and April 1 of  
2812 each year, upon written notice from the department, an annual  
2813 operation license fee in an amount determined by department  
2814 rule. The annual operation license fee shall be terminated  
2815 immediately in the event the United States Environmental  
2816 Protection Agency imposes annual fees solely to implement and  
2817 administer the major source air-operation permit program in  
2818 Florida under 40 C.F.R. s. 70.10(d).

2819 (a) The annual fee must be assessed based upon the source's  
2820 previous year's emissions and must be calculated by multiplying  
2821 the applicable annual operation license fee factor times the  
2822 tons of each regulated air pollutant actually emitted, as  
2823 calculated in accordance with the department's emissions



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2824 computation and reporting rules. The annual fee shall only apply  
2825 to those regulated pollutants, except carbon monoxide and  
2826 greenhouse gases, for which an allowable numeric emission  
2827 limiting standard is specified in the source's most recent  
2828 construction or operation permit; provided, however, that:

2829       1. The license fee factor is \$25 or another amount  
2830 determined by department rule which ensures that the revenue  
2831 provided by each year's operation license fees is sufficient to  
2832 cover all reasonable direct and indirect costs of the major  
2833 stationary source air-operation permit program established by  
2834 this section. The license fee factor may be increased beyond \$25  
2835 only if the secretary of the department affirmatively finds that  
2836 a shortage of revenue for support of the major stationary source  
2837 air-operation permit program will occur in the absence of a fee  
2838 factor adjustment. The annual license fee factor may never  
2839 exceed \$35.

2840       2. The amount of each regulated air pollutant in excess of  
2841 4,000 tons per year emitted by any source, or group of sources  
2842 belonging to the same Major Group as described in the Standard  
2843 Industrial Classification Manual, 1987, may not be included in  
2844 the calculation of the fee. Any source, or group of sources,  
2845 which does not emit any regulated air pollutant in excess of  
2846 4,000 tons per year, is allowed a one-time credit not to exceed  
2847 25 percent of the first annual licensing fee for the prorated  
2848 portion of existing air-operation permit application fees  
2849 remaining upon commencement of the annual licensing fees.

2850       3. If the department has not received the fee by March 1 of  
2851 the calendar year, the permittee must be sent a written warning  
2852 of the consequences for failing to pay the fee by April 1. If



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2853 the fee is not postmarked by April 1 of the calendar year, the  
2854 department shall impose, in addition to the fee, a penalty of 50  
2855 percent of the amount of the fee, plus interest on such amount  
2856 computed in accordance with s. 220.807. The department may not  
2857 impose such penalty or interest on any amount underpaid,  
2858 provided that the permittee has timely remitted payment of at  
2859 least 90 percent of the amount determined to be due and remits  
2860 full payment within 60 days after receipt of notice of the  
2861 amount underpaid. The department may waive the collection of  
2862 underpayment and may ~~shall~~ not be required to refund overpayment  
2863 of the fee, if the amount due is less than 1 percent of the fee,  
2864 up to \$50. The department may revoke any major air pollution  
2865 source operation permit if it finds that the permitholder has  
2866 failed to timely pay any required annual operation license fee,  
2867 penalty, or interest.

2868 4. Notwithstanding the computational provisions of this  
2869 subsection, the annual operation license fee for any source  
2870 subject to this section may ~~shall~~ not be less than \$250, except  
2871 that the annual operation license fee for sources permitted  
2872 solely through general permits issued under s. 403.814 may ~~shall~~  
2873 not exceed \$50 per year.

2874 5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes  
2875 ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air  
2876 pollution construction permit fees, the department may not  
2877 require such fees for changes or additions to a major source of  
2878 air pollution permitted pursuant to this section, unless the  
2879 activity triggers permitting requirements under Title I, Part C  
2880 or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-  
2881 7514a. Costs to issue and administer such permits shall be



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2882 considered direct and indirect costs of the major stationary  
2883 source air-operation permit program under s. 403.0873. The  
2884 department shall, however, require fees pursuant to s.  
2885 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the  
2886 construction of a new major source of air pollution that will be  
2887 subject to the permitting requirements of this section once  
2888 constructed and for activities triggering permitting  
2889 requirements under Title I, Part C or Part D, of the federal  
2890 Clean Air Act, 42 U.S.C. ss. 7470-7514a.

2891 Section 48. Paragraph (d) of subsection (3) of section  
2892 403.707, Florida Statutes, is amended to read:

2893 403.707 Permits.—

2894 (3)

2895 (d) The department may adopt rules to administer this  
2896 subsection. However, the department is not required to submit  
2897 such rules to the Environmental Regulation Commission for  
2898 approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s.~~  
2899 ~~403.087(6)(a)~~, permit fee caps for solid waste management  
2900 facilities shall be prorated to reflect the extended permit term  
2901 authorized by this subsection.

2902 Section 49. Subsections (8) and (21) of section 403.861,  
2903 Florida Statutes, are amended to read:

2904 403.861 Department; powers and duties.—The department shall  
2905 have the power and the duty to carry out the provisions and  
2906 purposes of this act and, for this purpose, to:

2907 (8) Initiate rulemaking to increase each drinking water  
2908 permit application fee authorized under s. 403.087(7) ~~s.~~  
2909 ~~403.087(6)~~ and this part and adopted by rule to ensure that such  
2910 fees are increased to reflect, at a minimum, any upward



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2911 adjustment in the Consumer Price Index compiled by the United  
2912 States Department of Labor, or similar inflation indicator,  
2913 since the original fee was established or most recently revised.

2914 (a) The department shall establish by rule the inflation  
2915 index to be used for this purpose. The department shall review  
2916 the drinking water permit application fees authorized under s.  
2917 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5  
2918 years and shall adjust the fees upward, as necessary, within the  
2919 established fee caps to reflect changes in the Consumer Price  
2920 Index or similar inflation indicator. In the event of deflation,  
2921 the department shall consult with the Executive Office of the  
2922 Governor and the Legislature to determine whether downward fee  
2923 adjustments are appropriate based on the current budget and  
2924 appropriation considerations. The department shall also review  
2925 the drinking water operation license fees established pursuant  
2926 to paragraph (7) (b) at least once every 5 years to adopt, as  
2927 necessary, the same inflationary adjustments provided for in  
2928 this subsection.

2929 (b) The minimum fee amount shall be the minimum fee  
2930 prescribed in this section, and such fee amount shall remain in  
2931 effect until the effective date of fees adopted by rule by the  
2932 department.

2933 (21) (a) Upon issuance of a construction permit to construct  
2934 a new public water system drinking water treatment facility to  
2935 provide potable water supply using a surface water that, at the  
2936 time of the permit application, is not being used as a potable  
2937 water supply, and the classification of which does not include  
2938 potable water supply as a designated use, the department shall  
2939 add treated potable water supply as a designated use of the



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2940 surface water segment in accordance with s. 403.061(30)(b) ~~s.~~  
2941 ~~403.061(29)(b)~~.

2942 (b) For existing public water system drinking water  
2943 treatment facilities that use a surface water as a treated  
2944 potable water supply, which surface water classification does  
2945 not include potable water supply as a designated use, the  
2946 department shall add treated potable water supply as a  
2947 designated use of the surface water segment in accordance with  
2948 s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.

2949 Section 50. Effective July 1, 2021, subsection (1) of  
2950 section 489.551, Florida Statutes, is amended to read:

2951 489.551 Definitions.—As used in this part:

2952 (1) "Department" means the Department of Environmental  
2953 Protection Health.

2954 Section 51. Paragraph (b) of subsection (10) of section  
2955 590.02, Florida Statutes, is amended to read:

2956 590.02 Florida Forest Service; powers, authority, and  
2957 duties; liability; building structures; Withlacoochee Training  
2958 Center.—

2959 (10)

2960 (b) The Florida Forest Service may delegate to a county,  
2961 municipality, or special district its authority:

2962 1. As delegated by the Department of Environmental  
2963 Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and  
2964 403.081, to manage and enforce regulations pertaining to the  
2965 burning of yard trash in accordance with s. 590.125(6).

2966 2. To manage the open burning of land clearing debris in  
2967 accordance with s. 590.125.

2968 Section 52. The Division of Law Revision is directed to



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2969 replace the phrase "before the rules identified in paragraph (e)  
2970 take effect" as it is used in the amendment made by this act to  
2971 s. 381.0065, Florida Statutes, with the date such rules are  
2972 adopted, as provided by the Department of Environmental  
2973 Protection pursuant to s. 381.0065(4)(f), Florida Statutes, as  
2974 amended by this act.

2975       Section 53. Except as otherwise expressly provided in this  
2976 act, this act shall take effect July 1, 2020.

2977  
2978 ===== T I T L E   A M E N D M E N T =====

2979 And the title is amended as follows:

2980       Delete everything before the enacting clause  
2981 and insert:

2982                       A bill to be entitled  
2983       An act relating to environmental resource management;  
2984       providing a short title; requiring the Department of  
2985       Health to provide a specified report to the Governor  
2986       and the Legislature by a specified date; requiring the  
2987       Department of Health and the Department of  
2988       Environmental Protection to submit to the Governor and  
2989       the Legislature, by a specified date, certain  
2990       recommendations relating to the transfer of the Onsite  
2991       Sewage Program; requiring the departments to enter  
2992       into an interagency agreement that meets certain  
2993       requirements by a specified date; transferring the  
2994       Onsite Sewage Program within the Department of Health  
2995       to the Department of Environmental Protection by a  
2996       type two transfer by a specified date; providing that  
2997       certain employees retain and transfer certain types of



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2998 leave upon the transfer; amending s. 20.255, F.S.;

2999 reducing the number of members of the Cabinet required

3000 concur with the Governor's appointment of the

3001 Secretary of Environmental Protection; amending s.

3002 373.036, F.S.; requiring water management districts to

3003 submit consolidated annual reports to the Office of

3004 Economic and Demographic Research; requiring such

3005 reports to include connection and conversion projects

3006 for onsite sewage treatment and disposal systems;

3007 amending s. 373.223, F.S.; requiring a consumptive use

3008 permit to use water derived from a spring for bottled

3009 water to meet certain requirements before approval;

3010 providing for the expiration of such requirements;

3011 requiring the Department of Environmental Protection,

3012 in coordination with the water management districts,

3013 to conduct a study on the bottled water industry in

3014 this state; providing requirements for the study;

3015 requiring the department to submit a report containing

3016 the findings of the study to the Governor, the

3017 Legislature, and the Office of Economic and

3018 Demographic Research by a specified date; defining the

3019 terms "bottled water" and "water derived from a

3020 spring"; amending s. 373.4131, F.S.; requiring the

3021 Department of Environmental Protection to include

3022 stormwater structural control inspections as part of

3023 its regular staff training; requiring the department

3024 and the water management districts to adopt rules

3025 regarding stormwater design and operation by a

3026 specified date; requiring the department to evaluate





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3027 data relating to self-certification and provide the  
3028 Legislature with recommendations; amending s.  
3029 381.0065, F.S.; conforming provisions to changes made  
3030 by the act; requiring the department to adopt rules  
3031 for the location of onsite sewage treatment and  
3032 disposal systems and complete such rulemaking by a  
3033 specified date; requiring the department to evaluate  
3034 certain data relating to the self-certification  
3035 program and provide the Legislature with  
3036 recommendations by a specified date; providing that  
3037 certain provisions relating to existing setback  
3038 requirements are applicable to permits only until the  
3039 adoption of certain rules by the department; removing  
3040 provisions establishing a Department of Health onsite  
3041 sewage treatment and disposal system research review  
3042 and advisory committee; requiring the department to  
3043 implement a specified approval process for the use of  
3044 nutrient reducing onsite sewage treatment and disposal  
3045 systems standards; creating s. 381.00652, F.S.;  
3046 creating an onsite sewage treatment and disposal  
3047 systems technical advisory committee within the  
3048 department; providing the duties and membership of the  
3049 committee; requiring the committee to submit  
3050 recommendations to the Governor and the Legislature by  
3051 a specified date; providing for the expiration of the  
3052 committee; defining a term; repealing s. 381.0068,  
3053 F.S., relating to a technical review and advisory  
3054 panel; amending s. 403.061, F.S.; requiring the  
3055 department to adopt rules relating to the underground



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3056 pipes of wastewater collection systems; requiring  
3057 public utilities or their affiliated companies that  
3058 hold or are seeking a wastewater discharge permit to  
3059 file certain reports and data with the department;  
3060 creating s. 403.0616, F.S.; requiring the department,  
3061 subject to legislative appropriation, to establish a  
3062 real-time water quality monitoring program;  
3063 encouraging the formation of public-private  
3064 partnerships; amending s. 403.067, F.S.; requiring  
3065 basin management action plans for nutrient total  
3066 maximum daily loads to include wastewater treatment  
3067 and onsite sewage treatment and disposal system  
3068 remediation plans that meet certain requirements;  
3069 requiring the Department of Agriculture and Consumer  
3070 Services to collect fertilization and nutrient records  
3071 from certain agricultural producers and provide the  
3072 information to the department annually by a specified  
3073 date; requiring the Department of Agriculture and  
3074 Consumer Services to perform onsite inspections of the  
3075 agricultural producers at specified intervals;  
3076 providing an additional management strategy for basin  
3077 management action plans to include cooperative  
3078 agricultural regional water quality improvement  
3079 elements; providing requirements for the Department of  
3080 Environmental Protection, the Department of  
3081 Agriculture and Consumer Services, and owners of  
3082 agricultural operations in developing and implementing  
3083 such elements; requiring certain entities to develop  
3084 research plans and legislative budget requests



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3085 relating to best management practices by a specified  
3086 date; creating s. 403.0671, F.S.; directing the  
3087 Department of Environmental Protection, in  
3088 coordination with the county health departments,  
3089 wastewater treatment facilities, and other  
3090 governmental entities, to submit a report on the costs  
3091 of certain wastewater projects to the Governor and  
3092 Legislature by a specified date; providing  
3093 requirements for such report; requiring the department  
3094 to submit a specified water quality monitoring  
3095 assessment report to the Governor and the Legislature  
3096 by a specified date; providing requirements for such  
3097 report; requiring the department to annually submit  
3098 certain wastewater project cost estimates to the  
3099 Office of Economic and Demographic Research beginning  
3100 on a specified date; creating s. 403.0673, F.S.;  
3101 establishing a wastewater grant program within the  
3102 Department of Environmental Protection; authorizing  
3103 the department to distribute appropriated funds for  
3104 certain projects; providing requirements for the  
3105 distribution; requiring the department to coordinate  
3106 with each water management district to identify grant  
3107 recipients; requiring an annual report to the Governor  
3108 and the Legislature by a specified date; creating s.  
3109 403.0855, F.S.; providing legislative findings  
3110 regarding the regulation of biosolids management in  
3111 this state; requiring the Department of Environmental  
3112 Protection to adopt rules for biosolids management;  
3113 specifying requirements for certain existing permits



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3114 and for permit renewals; requiring the permittee of a  
3115 biosolids application site to establish a groundwater  
3116 monitoring program under certain circumstances;  
3117 prohibiting the land application of biosolids within a  
3118 specified distance of the seasonal high-water table;  
3119 defining the term "seasonal high water"; authorizing  
3120 municipalities and counties to take certain actions  
3121 with respect to regulation of the land application of  
3122 specified biosolids; providing for a contingent  
3123 repeal; amending s. 403.086, F.S.; prohibiting  
3124 facilities for sanitary sewage disposal from disposing  
3125 of any waste in the Indian River Lagoon beginning on a  
3126 specified date without first providing advanced waste  
3127 treatment; requiring the Department of Environmental  
3128 Protection, in consultation with water management  
3129 districts and sewage disposal facilities, to submit a  
3130 report to the Governor and the Legislature on the  
3131 status of certain facility upgrades; specifying  
3132 requirements for the report; requiring facilities for  
3133 sanitary sewage disposal to have a power outage  
3134 contingency plan; requiring the facilities to take  
3135 steps to prevent overflows and leaks and ensure that  
3136 the water reaches the appropriate facility for  
3137 treatment; requiring the facilities to provide the  
3138 Department of Environmental Protection with certain  
3139 information; requiring the department to adopt rules;  
3140 amending s. 403.087, F.S.; requiring the department to  
3141 issue operation permits for domestic wastewater  
3142 treatment facilities to certain facilities under



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3143 certain circumstances; amending s. 403.088, F.S.;

3144 revising the permit conditions for a water pollution

3145 operation permit; requiring the department to submit a

3146 report to the Governor and the Legislature by a

3147 specified date identifying all wastewater utilities

3148 that experienced sanitary sewer overflows within a

3149 specified timeframe; providing requirements for the

3150 report; amending s. 403.0891, F.S.; requiring model

3151 stormwater management programs to contain model

3152 ordinances for nutrient reduction practices and green

3153 infrastructure; amending s. 403.121, F.S.; increasing

3154 and providing administrative penalties; amending s.

3155 403.1835, F.S.; conforming a cross-reference;

3156 requiring the department to give priority for water

3157 pollution control financial assistance to projects

3158 that implement certain provisions and that promote

3159 efficiency; amending s. 403.1838, F.S.; revising

3160 requirements for the prioritization of grant

3161 applications within the Small Community Sewer

3162 Construction Assistance Act; amending s. 403.412,

3163 F.S.; prohibiting local governments from recognizing

3164 or granting certain legal rights to the natural

3165 environment or granting such rights relating to the

3166 natural environment to a person or political

3167 subdivision; providing construction; providing a

3168 declaration of important state interest; amending ss.

3169 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46,

3170 373.250, 373.414, 373.705, 373.707, 373.709, 373.807,

3171 376.307, 380.0552, 381.006, 381.0061, 381.0064,



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3172 381.00651, 381.0101, 403.08601, 403.0871, 403.0872,  
3173 403.707, 403.861, 489.551, and 590.02, F.S.;  
3174 conforming cross-references and provisions to changes  
3175 made by the act; providing a directive to the Division  
3176 of Law Revision upon the adoption of certain rules by  
3177 the Department of Environmental Protection; providing  
3178 effective dates.

3179  
3180 WHEREAS, nutrients negatively impact groundwater and  
3181 surface waters in this state and cause the proliferation of  
3182 algal blooms, and

3183 WHEREAS, onsite sewage treatment and disposal systems were  
3184 designed to manage human waste and are permitted by the  
3185 Department of Health for that purpose, and

3186 WHEREAS, conventional onsite sewage treatment and disposal  
3187 systems contribute nutrients to groundwater and surface waters  
3188 across this state which can cause harmful blue-green algal  
3189 blooms, and

3190 WHEREAS, many stormwater systems are designed primarily to  
3191 divert and control stormwater rather than to remove pollutants,  
3192 and

3193 WHEREAS, most existing stormwater system design criteria  
3194 fail to consistently meet either the 80 percent or 95 percent  
3195 target pollutant reduction goals established by the Department  
3196 of Environmental Protection, and

3197 WHEREAS, other significant pollutants often can be removed  
3198 from stormwater more easily than nutrients and, as a result,  
3199 design criteria that provide the desired removal efficiencies  
3200 for nutrients will likely achieve equal or better removal



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3201 efficiencies for other constituents, and

3202 WHEREAS, the Department of Environmental Protection has  
3203 found that the major causes of sanitary sewer overflows during  
3204 storm events are infiltration, inflow, and acute power failures,  
3205 and

3206 WHEREAS, the Department of Environmental Protection lacks  
3207 statutory authority to regulate infiltration and inflow or to  
3208 require that all lift stations constructed prior to 2003 have  
3209 emergency backup power, and

3210 WHEREAS, sanitary sewer overflows and leaking  
3211 infrastructure create both a human health concern and a nutrient  
3212 pollution problem, and

3213 WHEREAS, the agricultural sector is a significant  
3214 contributor to the excess delivery of nutrients to surface  
3215 waters throughout this state and has been identified as the  
3216 dominant source of both phosphorus and nitrogen within the Lake  
3217 Okeechobee watershed and a number of other basin management  
3218 action plan areas, and

3219 WHEREAS, only 75 percent of eligible agricultural parties  
3220 within the Lake Okeechobee Basin Management Action Plan area are  
3221 enrolled in an appropriate best management practice and  
3222 enrollment numbers are considerably less in other basin  
3223 management action plan areas, and

3224 WHEREAS, although agricultural best management practices,  
3225 by design, should be technically feasible and economically  
3226 viable, that does not imply that their adoption and full  
3227 implementation, alone, will alleviate downstream water quality  
3228 impairments, NOW, THEREFORE,

3229



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2020	.	
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	.	
	.	

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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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11 Legislature further finds that a prohibition against discharges  
12 from vessels into the waters of the state would assist in  
13 protecting and enhancing the waters of this state.

14 (2) The Department of Environmental Protection, in  
15 coordination with the commission, shall apply to the  
16 Administrator of the United States Environmental Protection  
17 Agency to establish no-discharge zones wherever adequate pumpout  
18 facilities are available with the ultimate goal of making all of  
19 the waterbodies of this state no-discharge zones pursuant to 40  
20 C.F.R. s. 1700.10.

21 (3) By January 2, 2021, and every 2 years thereafter, the  
22 Department of Environmental Protection shall submit a report to  
23 the Governor, the President of the Senate, and the Speaker of  
24 the House of Representatives on the status and effectiveness of  
25 the no-discharge zone designation. The Department of  
26 Environmental Protection shall identify in the report any  
27 specific impediments that prevent the entire state from  
28 achieving a no-discharge zone designation.

29 Section 4. Paragraphs (a) and (b) of subsection (7) of  
30 section 373.036, Florida Statutes, are amended to read:

31 373.036 Florida water plan; district water management  
32 plans.—

33 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

34 (a) By March 1, annually, each water management district  
35 shall prepare and submit to the Office of Economic and  
36 Demographic Research, the department, the Governor, the  
37 President of the Senate, and the Speaker of the House of  
38 Representatives a consolidated water management district annual  
39 report on the management of water resources. In addition, copies



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40 must be provided by the water management districts to the chairs  
41 of all legislative committees having substantive or fiscal  
42 jurisdiction over the districts and the governing board of each  
43 county in the district having jurisdiction or deriving any funds  
44 for operations of the district. Copies of the consolidated  
45 annual report must be made available to the public, either in  
46 printed or electronic format.

47 (b) The consolidated annual report shall contain the  
48 following elements, as appropriate to that water management  
49 district:

50 1. A district water management plan annual report or the  
51 annual work plan report allowed in subparagraph (2)(e)4.

52 2. The department-approved minimum flows and minimum water  
53 levels annual priority list and schedule required by s.  
54 373.042(3).

55 3. The annual 5-year capital improvements plan required by  
56 s. 373.536(6)(a)3.

57 4. The alternative water supplies annual report required by  
58 s. 373.707(8)(n).

59 5. The final annual 5-year water resource development work  
60 program required by s. 373.536(6)(a)4.

61 6. The Florida Forever Water Management District Work Plan  
62 annual report required by s. 373.199(7).

63 7. The mitigation donation annual report required by s.  
64 373.414(1)(b)2.

65 8. Information on all projects related to water quality or  
66 water quantity as part of a 5-year work program, including:

67 a. A list of all specific projects identified to implement  
68 a basin management action plan, including any projects to



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69 connect onsite sewage treatment and disposal systems to central  
70 sewerage systems and convert onsite sewage treatment and  
71 disposal systems to advanced nutrient removing onsite sewage  
72 treatment and disposal systems, or a recovery or prevention  
73 strategy;

74       b. A priority ranking for each listed project for which  
75 state funding through the water resources development work  
76 program is requested, which must be made available to the public  
77 for comment at least 30 days before submission of the  
78 consolidated annual report;

79       c. The estimated cost for each listed project;

80       d. The estimated completion date for each listed project;

81       e. The source and amount of financial assistance to be made  
82 available by the department, a water management district, or  
83 other entity for each listed project; and

84       f. A quantitative estimate of each listed project's benefit  
85 to the watershed, water body, or water segment in which it is  
86 located.

87       9. A grade for each watershed, water body, or water segment  
88 in which a project listed under subparagraph 8. is located  
89 representing the level of impairment and violations of adopted  
90 minimum flow or minimum water levels. The grading system must  
91 reflect the severity of the impairment of the watershed, water  
92 body, or water segment.

93       Section 5. Paragraph (a) of subsection (3) and subsection  
94 (5) of section 373.4131, Florida Statutes, are amended, and  
95 subsection (6) is added to that section, to read:

96       373.4131 Statewide environmental resource permitting  
97 rules.-



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98           (3) (a) The water management districts, with department  
99 oversight, shall ~~may continue to~~ adopt rules governing design  
100 and performance standards for stormwater quality and quantity,  
101 including design and performance standards that increase the  
102 removal of nutrients from stormwater discharges. ~~and~~ The  
103 department shall ~~may~~ incorporate the design and performance  
104 standards by reference for use within the geographic  
105 jurisdiction of each district to ensure that additional  
106 pollutant loadings are not discharged into impaired water  
107 bodies. By January 1, 2021, the department and water management  
108 districts shall amend the Environmental Resource Permit  
109 Applicant's Handbook to include revised best management  
110 practices design criteria and low-impact design best management  
111 practices and design criteria that increase the removal of  
112 nutrients from stormwater discharges, and measures for  
113 consistent application of the net improvement performance  
114 standard to ensure that additional pollutant loadings are not  
115 discharged into impaired water bodies. The level of nutrient  
116 treatment and the design criteria for stormwater best management  
117 practices must be consistent with best available scientific  
118 information.

119           (5) To ensure consistent implementation and interpretation  
120 of the rules adopted pursuant to this section, the department  
121 shall conduct or oversee regular assessment and training of its  
122 staff and the staffs of the water management districts and local  
123 governments delegated local pollution control program authority  
124 under s. 373.441. The training must include coordinating field  
125 inspections of publicly and privately owned stormwater  
126 structural controls, such as stormwater retention or detention



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127 ponds.

128 (6) By January 1, 2021, the department shall evaluate  
129 inspection data relating to compliance by those entities that  
130 self-certify under s. 403.814(12) and shall provide the  
131 Legislature with recommendations for improvements to the self-  
132 certification program.

133 Section 6. Effective July 1, 2021, present paragraphs (d)  
134 through (q) of subsection (2) of section 381.0065, Florida  
135 Statutes, are redesignated as paragraphs (e) through (r),  
136 respectively, a new paragraph (d) is added to that subsection,  
137 and subsections (3) and (4) of that section are amended, to  
138 read:

139 381.0065 Onsite sewage treatment and disposal systems;  
140 regulation.—

141 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the  
142 term:

143 (d) "Department" means the Department of Environmental  
144 Protection.

145 (3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The  
146 department shall:

147 (a) Adopt rules to administer ss. 381.0065-381.0067,  
148 including definitions that are consistent with the definitions  
149 in this section, ~~decreases to setback requirements where no~~  
150 ~~health hazard exists,~~ increases for the lot-flow allowance for  
151 performance-based systems, requirements for separation from  
152 water table elevation during the wettest season, requirements  
153 for the design and construction of any component part of an  
154 onsite sewage treatment and disposal system, application and  
155 permit requirements for persons who maintain an onsite sewage



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156 treatment and disposal system, requirements for maintenance and  
157 service agreements for aerobic treatment units and performance-  
158 based treatment systems, and recommended standards, including  
159 disclosure requirements, for voluntary system inspections to be  
160 performed by individuals who are authorized by law to perform  
161 such inspections and who shall inform a person having ownership,  
162 control, or use of an onsite sewage treatment and disposal  
163 system of the inspection standards and of that person's  
164 authority to request an inspection based on all or part of the  
165 standards.

166 (b) Perform application reviews and site evaluations, issue  
167 permits, and conduct inspections and complaint investigations  
168 associated with the construction, installation, maintenance,  
169 modification, abandonment, operation, use, or repair of an  
170 onsite sewage treatment and disposal system for a residence or  
171 establishment with an estimated domestic sewage flow of 10,000  
172 gallons or less per day, or an estimated commercial sewage flow  
173 of 5,000 gallons or less per day, which is not currently  
174 regulated under chapter 403.

175 (c) Develop a comprehensive program to ensure that onsite  
176 sewage treatment and disposal systems regulated by the  
177 department are sized, designed, constructed, installed, sited,  
178 repaired, modified, abandoned, used, operated, and maintained in  
179 compliance with this section and rules adopted under this  
180 section to prevent groundwater contamination, including impacts  
181 from nutrient pollution, and surface water contamination and to  
182 preserve the public health. The department is the final  
183 administrative interpretive authority regarding rule  
184 interpretation. In the event of a conflict regarding rule



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185 interpretation, the secretary of the department ~~State Surgeon~~  
186 ~~General~~, or his or her designee, shall timely assign a staff  
187 person to resolve the dispute.

188 (d) Grant variances in hardship cases under the conditions  
189 prescribed in this section and rules adopted under this section.

190 (e) Permit the use of a limited number of innovative  
191 systems for a specific period of time, when there is compelling  
192 evidence that the system will function properly and reliably to  
193 meet the requirements of this section and rules adopted under  
194 this section.

195 (f) Issue annual operating permits under this section.

196 (g) Establish and collect fees as established under s.  
197 381.0066 for services provided with respect to onsite sewage  
198 treatment and disposal systems.

199 (h) Conduct enforcement activities, including imposing  
200 fines, issuing citations, suspensions, revocations, injunctions,  
201 and emergency orders for violations of this section, part I of  
202 chapter 386, or part III of chapter 489 or for a violation of  
203 any rule adopted under this section, part I of chapter 386, or  
204 part III of chapter 489.

205 (i) Provide or conduct education and training of department  
206 personnel, service providers, and the public regarding onsite  
207 sewage treatment and disposal systems.

208 (j) Supervise research on, demonstration of, and training  
209 on the performance, environmental impact, and public health  
210 impact of onsite sewage treatment and disposal systems within  
211 this state. Research fees collected under s. 381.0066(2)(k) must  
212 be used to develop and fund hands-on training centers designed  
213 to provide practical information about onsite sewage treatment



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214 and disposal systems to septic tank contractors, master septic  
215 tank contractors, contractors, inspectors, engineers, and the  
216 public and must also be used to fund research projects which  
217 focus on improvements of onsite sewage treatment and disposal  
218 systems, including use of performance-based standards and  
219 reduction of environmental impact. Research projects shall be  
220 initially approved by the technical review and advisory panel  
221 and shall be applicable to and reflect the soil conditions  
222 specific to Florida. Such projects shall be awarded through  
223 competitive negotiation, using the procedures provided in s.  
224 287.055, to public or private entities that have experience in  
225 onsite sewage treatment and disposal systems in Florida and that  
226 are principally located in Florida. Research projects may ~~shall~~  
227 not be awarded to firms or entities that employ or are  
228 associated with persons who serve on either the technical review  
229 and advisory panel or the research review and advisory  
230 committee.

231 (k) Approve the installation of individual graywater  
232 disposal systems in which blackwater is treated by a central  
233 sewerage system.

234 (l) Regulate and permit the sanitation, handling,  
235 treatment, storage, reuse, and disposal of byproducts from any  
236 system regulated under this chapter and not regulated by the  
237 Department of Environmental Protection.

238 (m) Permit and inspect portable or temporary toilet  
239 services and holding tanks. The department shall review  
240 applications, perform site evaluations, and issue permits for  
241 the temporary use of holding tanks, privies, portable toilet  
242 services, or any other toilet facility that is intended for use





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243 on a permanent or nonpermanent basis, including facilities  
244 placed on construction sites when workers are present. The  
245 department may specify standards for the construction,  
246 maintenance, use, and operation of any such facility for  
247 temporary use.

248 (n) Regulate and permit maintenance entities for  
249 performance-based treatment systems and aerobic treatment unit  
250 systems. To ensure systems are maintained and operated according  
251 to manufacturer's specifications and designs, the department  
252 shall establish by rule minimum qualifying criteria for  
253 maintenance entities. The criteria shall include: training,  
254 access to approved spare parts and components, access to  
255 manufacturer's maintenance and operation manuals, and service  
256 response time. The maintenance entity shall employ a contractor  
257 licensed under s. 489.105(3)(m), or part III of chapter 489, or  
258 a state-licensed wastewater plant operator, who is responsible  
259 for maintenance and repair of all systems under contract.

260 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not  
261 construct, repair, modify, abandon, or operate an onsite sewage  
262 treatment and disposal system without first obtaining a permit  
263 approved by the department. The department may issue permits to  
264 carry out this section, ~~but shall not make the issuance of such~~  
265 ~~permits contingent upon prior approval by the Department of~~  
266 ~~Environmental Protection, except that~~ The issuance of a permit  
267 for work seaward of the coastal construction control line  
268 established under s. 161.053 shall be contingent upon receipt of  
269 any required coastal construction control line permit from the  
270 department ~~of Environmental Protection~~. A construction permit is  
271 valid for 18 months from the issuance date and may be extended



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272 by the department for one 90-day period under rules adopted by  
273 the department. A repair permit is valid for 90 days from the  
274 date of issuance. An operating permit must be obtained before  
275 ~~prior to~~ the use of any aerobic treatment unit or if the  
276 establishment generates commercial waste. Buildings or  
277 establishments that use an aerobic treatment unit or generate  
278 commercial waste shall be inspected by the department at least  
279 annually to assure compliance with the terms of the operating  
280 permit. The operating permit for a commercial wastewater system  
281 is valid for 1 year from the date of issuance and must be  
282 renewed annually. The operating permit for an aerobic treatment  
283 unit is valid for 2 years from the date of issuance and must be  
284 renewed every 2 years. If all information pertaining to the  
285 siting, location, and installation conditions or repair of an  
286 onsite sewage treatment and disposal system remains the same, a  
287 construction or repair permit for the onsite sewage treatment  
288 and disposal system may be transferred to another person, if the  
289 transferee files, within 60 days after the transfer of  
290 ownership, an amended application providing all corrected  
291 information and proof of ownership of the property. There is no  
292 fee associated with the processing of this supplemental  
293 information. A person may not contract to construct, modify,  
294 alter, repair, service, abandon, or maintain any portion of an  
295 onsite sewage treatment and disposal system without being  
296 registered under part III of chapter 489. A property owner who  
297 personally performs construction, maintenance, or repairs to a  
298 system serving his or her own owner-occupied single-family  
299 residence is exempt from registration requirements for  
300 performing such construction, maintenance, or repairs on that



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301 residence, but is subject to all permitting requirements. A  
302 municipality or political subdivision of the state may not issue  
303 a building or plumbing permit for any building that requires the  
304 use of an onsite sewage treatment and disposal system unless the  
305 owner or builder has received a construction permit for such  
306 system from the department. A building or structure may not be  
307 occupied and a municipality, political subdivision, or any state  
308 or federal agency may not authorize occupancy until the  
309 department approves the final installation of the onsite sewage  
310 treatment and disposal system. A municipality or political  
311 subdivision of the state may not approve any change in occupancy  
312 or tenancy of a building that uses an onsite sewage treatment  
313 and disposal system until the department has reviewed the use of  
314 the system with the proposed change, approved the change, and  
315 amended the operating permit.

316 (a) Subdivisions and lots in which each lot has a minimum  
317 area of at least one-half acre and either a minimum dimension of  
318 100 feet or a mean of at least 100 feet of the side bordering  
319 the street and the distance formed by a line parallel to the  
320 side bordering the street drawn between the two most distant  
321 points of the remainder of the lot may be developed with a water  
322 system regulated under s. 381.0062 and onsite sewage treatment  
323 and disposal systems, provided the projected daily sewage flow  
324 does not exceed an average of 1,500 gallons per acre per day,  
325 and provided satisfactory drinking water can be obtained and all  
326 distance and setback, soil condition, water table elevation, and  
327 other related requirements of this section and rules adopted  
328 under this section can be met.

329 (b) Subdivisions and lots using a public water system as



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330 defined in s. 403.852 may use onsite sewage treatment and  
331 disposal systems, provided there are no more than four lots per  
332 acre, provided the projected daily sewage flow does not exceed  
333 an average of 2,500 gallons per acre per day, and provided that  
334 all distance and setback, soil condition, water table elevation,  
335 and other related requirements that are generally applicable to  
336 the use of onsite sewage treatment and disposal systems are met.

337 (c) Notwithstanding paragraphs (a) and (b), for  
338 subdivisions platted of record on or before October 1, 1991,  
339 when a developer or other appropriate entity has previously made  
340 or makes provisions, including financial assurances or other  
341 commitments, acceptable to the Department ~~of Health~~, that a  
342 central water system will be installed by a regulated public  
343 utility based on a density formula, private potable wells may be  
344 used with onsite sewage treatment and disposal systems until the  
345 agreed-upon densities are reached. In a subdivision regulated by  
346 this paragraph, the average daily sewage flow may not exceed  
347 2,500 gallons per acre per day. This section does not affect the  
348 validity of existing prior agreements. After October 1, 1991,  
349 the exception provided under this paragraph is not available to  
350 a developer or other appropriate entity.

351 (d) Paragraphs (a) and (b) do not apply to any proposed  
352 residential subdivision with more than 50 lots or to any  
353 proposed commercial subdivision with more than 5 lots where a  
354 publicly owned or investor-owned sewerage system is available.  
355 It is the intent of this paragraph not to allow development of  
356 additional proposed subdivisions in order to evade the  
357 requirements of this paragraph.

358 (e) The department shall adopt rules to locate onsite



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359 sewage treatment and disposal systems, including establishing  
360 setback distances, to prevent groundwater contamination and  
361 surface water contamination and to preserve the public health.  
362 The rulemaking process for such rules must be completed by July  
363 1, 2022, and the department shall notify the Division of Law  
364 Revision of the date such rules are adopted. The rules must  
365 consider conventional and enhanced nutrient-reducing onsite  
366 sewage treatment and disposal system designs, impaired or  
367 degraded water bodies, domestic wastewater and drinking water  
368 infrastructure, potable water sources, nonpotable wells,  
369 stormwater infrastructure, the onsite sewage treatment and  
370 disposal system remediation plans developed pursuant to s.  
371 403.067(7)(a)9.b., nutrient pollution, and the recommendations  
372 of the onsite sewage treatment and disposal systems technical  
373 advisory committee established pursuant to s. 381.00652.

374 (f)~~(e)~~ Onsite sewage treatment and disposal systems that  
375 are permitted before the rules identified in paragraph (e) take  
376 effect may ~~must~~ not be placed closer than:

- 377 1. Seventy-five feet from a private potable well.  
378 2. Two hundred feet from a public potable well serving a  
379 residential or nonresidential establishment having a total  
380 sewage flow of greater than 2,000 gallons per day.  
381 3. One hundred feet from a public potable well serving a  
382 residential or nonresidential establishment having a total  
383 sewage flow of less than or equal to 2,000 gallons per day.  
384 4. Fifty feet from any nonpotable well.  
385 5. Ten feet from any storm sewer pipe, to the maximum  
386 extent possible, but in no instance shall the setback be less  
387 than 5 feet.



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388           6. Seventy-five feet from the mean high-water line of a  
389 tidally influenced surface water body.

390           7. Seventy-five feet from the mean annual flood line of a  
391 permanent nontidal surface water body.

392           8. Fifteen feet from the design high-water line of  
393 retention areas, detention areas, or swales designed to contain  
394 standing or flowing water for less than 72 hours after a  
395 rainfall or the design high-water level of normally dry drainage  
396 ditches or normally dry individual lot stormwater retention  
397 areas.

398           ~~(f) Except as provided under paragraphs (c) and (t), no~~  
399 ~~limitations shall be imposed by rule, relating to the distance~~  
400 ~~between an onsite disposal system and any area that either~~  
401 ~~permanently or temporarily has visible surface water.~~

402           (g) All provisions of this section and rules adopted under  
403 this section relating to soil condition, water table elevation,  
404 distance, and other setback requirements must be equally applied  
405 to all lots, with the following exceptions:

406           1. Any residential lot that was platted and recorded on or  
407 after January 1, 1972, or that is part of a residential  
408 subdivision that was approved by the appropriate permitting  
409 agency on or after January 1, 1972, and that was eligible for an  
410 onsite sewage treatment and disposal system construction permit  
411 on the date of such platting and recording or approval shall be  
412 eligible for an onsite sewage treatment and disposal system  
413 construction permit, regardless of when the application for a  
414 permit is made. If rules in effect at the time the permit  
415 application is filed cannot be met, residential lots platted and  
416 recorded or approved on or after January 1, 1972, shall, to the



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417 maximum extent possible, comply with the rules in effect at the  
418 time the permit application is filed. At a minimum, however,  
419 those residential lots platted and recorded or approved on or  
420 after January 1, 1972, but before January 1, 1983, shall comply  
421 with those rules in effect on January 1, 1983, and those  
422 residential lots platted and recorded or approved on or after  
423 January 1, 1983, shall comply with those rules in effect at the  
424 time of such platting and recording or approval. In determining  
425 the maximum extent of compliance with current rules that is  
426 possible, the department shall allow structures and  
427 appurtenances thereto which were authorized at the time such  
428 lots were platted and recorded or approved.

429         2. Lots platted before 1972 are subject to a 50-foot  
430 minimum surface water setback and are not subject to lot size  
431 requirements. The projected daily flow for onsite sewage  
432 treatment and disposal systems for lots platted before 1972 may  
433 not exceed:

434             a. Two thousand five hundred gallons per acre per day for  
435 lots served by public water systems as defined in s. 403.852.

436             b. One thousand five hundred gallons per acre per day for  
437 lots served by water systems regulated under s. 381.0062.

438             (h)1. The department may grant variances in hardship cases  
439 which may be less restrictive than ~~the provisions~~ specified in  
440 this section. If a variance is granted and the onsite sewage  
441 treatment and disposal system construction permit has been  
442 issued, the variance may be transferred with the system  
443 construction permit, if the transferee files, within 60 days  
444 after the transfer of ownership, an amended construction permit  
445 application providing all corrected information and proof of



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446 ownership of the property and if the same variance would have  
447 been required for the new owner of the property as was  
448 originally granted to the original applicant for the variance.  
449 There is no fee associated with the processing of this  
450 supplemental information. A variance may not be granted under  
451 this section until the department is satisfied that:

452 a. The hardship was not caused intentionally by the action  
453 of the applicant;

454 b. No reasonable alternative, taking into consideration  
455 factors such as cost, exists for the treatment of the sewage;  
456 and

457 c. The discharge from the onsite sewage treatment and  
458 disposal system will not adversely affect the health of the  
459 applicant or the public or significantly degrade the groundwater  
460 or surface waters.

461  
462 Where soil conditions, water table elevation, and setback  
463 provisions are determined by the department to be satisfactory,  
464 special consideration must be given to those lots platted before  
465 1972.

466 2. The department shall appoint and staff a variance review  
467 and advisory committee, which shall meet monthly to recommend  
468 agency action on variance requests. The committee shall make its  
469 recommendations on variance requests at the meeting in which the  
470 application is scheduled for consideration, except for an  
471 extraordinary change in circumstances, the receipt of new  
472 information that raises new issues, or when the applicant  
473 requests an extension. The committee shall consider the criteria  
474 in subparagraph 1. in its recommended agency action on variance





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475 requests and shall also strive to allow property owners the full  
476 use of their land where possible. The committee consists of the  
477 following:

478 a. The Secretary of Environmental Protection ~~State Surgeon~~  
479 ~~General~~ or his or her designee.

480 b. A representative from the county health departments.

481 c. A representative from the home building industry  
482 recommended by the Florida Home Builders Association.

483 d. A representative from the septic tank industry  
484 recommended by the Florida Onsite Wastewater Association.

485 e. A representative from the Department of Health  
486 ~~Environmental Protection~~.

487 f. A representative from the real estate industry who is  
488 also a developer in this state who develops lots using onsite  
489 sewage treatment and disposal systems, recommended by the  
490 Florida Association of Realtors.

491 g. A representative from the engineering profession  
492 recommended by the Florida Engineering Society.

493

494 Members shall be appointed for a term of 3 years, with such  
495 appointments being staggered so that the terms of no more than  
496 two members expire in any one year. Members shall serve without  
497 remuneration, but if requested, shall be reimbursed for per diem  
498 and travel expenses as provided in s. 112.061.

499 (i) A construction permit may not be issued for an onsite  
500 sewage treatment and disposal system in any area zoned or used  
501 for industrial or manufacturing purposes, or its equivalent,  
502 where a publicly owned or investor-owned sewage treatment system  
503 is available, or where a likelihood exists that the system will



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504 receive toxic, hazardous, or industrial waste. An existing  
505 onsite sewage treatment and disposal system may be repaired if a  
506 publicly owned or investor-owned sewerage system is not  
507 available within 500 feet of the building sewer stub-out and if  
508 system construction and operation standards can be met. This  
509 paragraph does not require publicly owned or investor-owned  
510 sewerage treatment systems to accept anything other than  
511 domestic wastewater.

512 1. A building located in an area zoned or used for  
513 industrial or manufacturing purposes, or its equivalent, when  
514 such building is served by an onsite sewage treatment and  
515 disposal system, must not be occupied until the owner or tenant  
516 has obtained written approval from the department. The  
517 department may ~~shall~~ not grant approval when the proposed use of  
518 the system is to dispose of toxic, hazardous, or industrial  
519 wastewater or toxic or hazardous chemicals.

520 2. Each person who owns or operates a business or facility  
521 in an area zoned or used for industrial or manufacturing  
522 purposes, or its equivalent, or who owns or operates a business  
523 that has the potential to generate toxic, hazardous, or  
524 industrial wastewater or toxic or hazardous chemicals, and uses  
525 an onsite sewage treatment and disposal system that is installed  
526 on or after July 5, 1989, must obtain an annual system operating  
527 permit from the department. A person who owns or operates a  
528 business that uses an onsite sewage treatment and disposal  
529 system that was installed and approved before July 5, 1989, need  
530 not obtain a system operating permit. However, upon change of  
531 ownership or tenancy, the new owner or operator must notify the  
532 department of the change, and the new owner or operator must



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533 obtain an annual system operating permit, regardless of the date  
534 that the system was installed or approved.

535         3. The department shall periodically review and evaluate  
536 the continued use of onsite sewage treatment and disposal  
537 systems in areas zoned or used for industrial or manufacturing  
538 purposes, or its equivalent, and may require the collection and  
539 analyses of samples from within and around such systems. If the  
540 department finds that toxic or hazardous chemicals or toxic,  
541 hazardous, or industrial wastewater have been or are being  
542 disposed of through an onsite sewage treatment and disposal  
543 system, the department shall initiate enforcement actions  
544 against the owner or tenant to ensure adequate cleanup,  
545 treatment, and disposal.

546         (j) An onsite sewage treatment and disposal system designed  
547 by a professional engineer registered in the state and certified  
548 by such engineer as complying with performance criteria adopted  
549 by the department must be approved by the department subject to  
550 the following:

551         1. The performance criteria applicable to engineer-designed  
552 systems must be limited to those necessary to ensure that such  
553 systems do not adversely affect the public health or  
554 significantly degrade the groundwater or surface water. Such  
555 performance criteria shall include consideration of the quality  
556 of system effluent, the proposed total sewage flow per acre,  
557 wastewater treatment capabilities of the natural or replaced  
558 soil, water quality classification of the potential surface-  
559 water-receiving body, and the structural and maintenance  
560 viability of the system for the treatment of domestic  
561 wastewater. However, performance criteria shall address only the



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562 performance of a system and not a system's design.

563         2. A person electing to utilize an engineer-designed system  
564 shall, upon completion of the system design, submit such design,  
565 certified by a registered professional engineer, to the county  
566 health department. The county health department may utilize an  
567 outside consultant to review the engineer-designed system, with  
568 the actual cost of such review to be borne by the applicant.  
569 Within 5 working days after receiving an engineer-designed  
570 system permit application, the county health department shall  
571 request additional information if the application is not  
572 complete. Within 15 working days after receiving a complete  
573 application for an engineer-designed system, the county health  
574 department either shall issue the permit or, if it determines  
575 that the system does not comply with the performance criteria,  
576 shall notify the applicant of that determination and refer the  
577 application to the department for a determination as to whether  
578 the system should be approved, disapproved, or approved with  
579 modification. The department engineer's determination shall  
580 prevail over the action of the county health department. The  
581 applicant shall be notified in writing of the department's  
582 determination and of the applicant's rights to pursue a variance  
583 or seek review under ~~the provisions of~~ chapter 120.

584         3. The owner of an engineer-designed performance-based  
585 system must maintain a current maintenance service agreement  
586 with a maintenance entity permitted by the department. The  
587 maintenance entity shall inspect each system at least twice each  
588 year and shall report quarterly to the department on the number  
589 of systems inspected and serviced. The reports may be submitted  
590 electronically.



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591           4. The property owner of an owner-occupied, single-family  
592 residence may be approved and permitted by the department as a  
593 maintenance entity for his or her own performance-based  
594 treatment system upon written certification from the system  
595 manufacturer's approved representative that the property owner  
596 has received training on the proper installation and service of  
597 the system. The maintenance service agreement must conspicuously  
598 disclose that the property owner has the right to maintain his  
599 or her own system and is exempt from contractor registration  
600 requirements for performing construction, maintenance, or  
601 repairs on the system but is subject to all permitting  
602 requirements.

603           5. The property owner shall obtain a biennial system  
604 operating permit from the department for each system. The  
605 department shall inspect the system at least annually, or on  
606 such periodic basis as the fee collected permits, and may  
607 collect system-effluent samples if appropriate to determine  
608 compliance with the performance criteria. The fee for the  
609 biennial operating permit shall be collected beginning with the  
610 second year of system operation.

611           6. If an engineer-designed system fails to properly  
612 function or fails to meet performance standards, the system  
613 shall be re-engineered, if necessary, to bring the system into  
614 compliance with ~~the provisions of~~ this section.

615           (k) An innovative system may be approved in conjunction  
616 with an engineer-designed site-specific system which is  
617 certified by the engineer to meet the performance-based criteria  
618 adopted by the department.

619           (l) For the Florida Keys, the department shall adopt a



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620 special rule for the construction, installation, modification,  
621 operation, repair, maintenance, and performance of onsite sewage  
622 treatment and disposal systems which considers the unique soil  
623 conditions and water table elevations, densities, and setback  
624 requirements. On lots where a setback distance of 75 feet from  
625 surface waters, saltmarsh, and buttonwood association habitat  
626 areas cannot be met, an injection well, approved and permitted  
627 by the department, may be used for disposal of effluent from  
628 onsite sewage treatment and disposal systems. The following  
629 additional requirements apply to onsite sewage treatment and  
630 disposal systems in Monroe County:

631 1. The county, each municipality, and those special  
632 districts established for the purpose of the collection,  
633 transmission, treatment, or disposal of sewage shall ensure, in  
634 accordance with the specific schedules adopted by the  
635 Administration Commission under s. 380.0552, the completion of  
636 onsite sewage treatment and disposal system upgrades to meet the  
637 requirements of this paragraph.

638 2. Onsite sewage treatment and disposal systems must cease  
639 discharge by December 31, 2015, or must comply with department  
640 rules and provide the level of treatment which, on a permitted  
641 annual average basis, produces an effluent that contains no more  
642 than the following concentrations:

- 643 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
- 644 b. Suspended Solids of 10 mg/l.
- 645 c. Total Nitrogen, expressed as N, of 10 mg/l or a  
646 reduction in nitrogen of at least 70 percent. A system that has  
647 been tested and certified to reduce nitrogen concentrations by  
648 at least 70 percent shall be deemed to be in compliance with



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649 this standard.

650 d. Total Phosphorus, expressed as P, of 1 mg/l.

651

652 In addition, onsite sewage treatment and disposal systems  
653 discharging to an injection well must provide basic disinfection  
654 as defined by department rule.

655 3. In areas not scheduled to be served by a central sewer,  
656 onsite sewage treatment and disposal systems must, by December  
657 31, 2015, comply with department rules and provide the level of  
658 treatment described in subparagraph 2.

659 4. In areas scheduled to be served by central sewer by  
660 December 31, 2015, if the property owner has paid a connection  
661 fee or assessment for connection to the central sewer system,  
662 the property owner may install a holding tank with a high water  
663 alarm or an onsite sewage treatment and disposal system that  
664 meets the following minimum standards:

665 a. The existing tanks must be pumped and inspected and  
666 certified as being watertight and free of defects in accordance  
667 with department rule; and

668 b. A sand-lined drainfield or injection well in accordance  
669 with department rule must be installed.

670 5. Onsite sewage treatment and disposal systems must be  
671 monitored for total nitrogen and total phosphorus concentrations  
672 as required by department rule.

673 6. The department shall enforce proper installation,  
674 operation, and maintenance of onsite sewage treatment and  
675 disposal systems pursuant to this chapter, including ensuring  
676 that the appropriate level of treatment described in  
677 subparagraph 2. is met.



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678           7. The authority of a local government, including a special  
679 district, to mandate connection of an onsite sewage treatment  
680 and disposal system is governed by s. 4, chapter 99-395, Laws of  
681 Florida.

682           8. Notwithstanding any other ~~provision of~~ law, an onsite  
683 sewage treatment and disposal system installed after July 1,  
684 2010, in unincorporated Monroe County, excluding special  
685 wastewater districts, that complies with the standards in  
686 subparagraph 2. is not required to connect to a central sewer  
687 system until December 31, 2020.

688           (m) No product sold in the state for use in onsite sewage  
689 treatment and disposal systems may contain any substance in  
690 concentrations or amounts that would interfere with or prevent  
691 the successful operation of such system, or that would cause  
692 discharges from such systems to violate applicable water quality  
693 standards. The department shall publish criteria for products  
694 known or expected to meet the conditions of this paragraph. In  
695 the event a product does not meet such criteria, such product  
696 may be sold if the manufacturer satisfactorily demonstrates to  
697 the department that the conditions of this paragraph are met.

698           (n) Evaluations for determining the seasonal high-water  
699 table elevations or the suitability of soils for the use of a  
700 new onsite sewage treatment and disposal system shall be  
701 performed by department personnel, professional engineers  
702 registered in the state, or such other persons with expertise,  
703 as defined by rule, in making such evaluations. Evaluations for  
704 determining mean annual flood lines shall be performed by those  
705 persons identified in paragraph (2) (k) ~~(2) (j)~~. The department  
706 shall accept evaluations submitted by professional engineers and





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707 such other persons as meet the expertise established by this  
708 section or by rule unless the department has a reasonable  
709 scientific basis for questioning the accuracy or completeness of  
710 the evaluation.

711 (o) The department shall appoint a research review and  
712 advisory committee, which shall meet at least semiannually. The  
713 committee shall advise the department on directions for new  
714 research, review and rank proposals for research contracts, and  
715 review draft research reports and make comments. The committee  
716 is comprised of:

717 1. A representative of the Secretary of Environmental  
718 Protection State Surgeon General, or his or her designee.

719 2. A representative from the septic tank industry.

720 3. A representative from the home building industry.

721 4. A representative from an environmental interest group.

722 5. A representative from the State University System, from  
723 a department knowledgeable about onsite sewage treatment and  
724 disposal systems.

725 6. A professional engineer registered in this state who has  
726 work experience in onsite sewage treatment and disposal systems.

727 7. A representative from local government who is  
728 knowledgeable about domestic wastewater treatment.

729 8. A representative from the real estate profession.

730 9. A representative from the restaurant industry.

731 10. A consumer.

732

733 Members shall be appointed for a term of 3 years, with the  
734 appointments being staggered so that the terms of no more than  
735 four members expire in any one year. Members shall serve without



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736 remuneration, but are entitled to reimbursement for per diem and  
737 travel expenses as provided in s. 112.061.

738 (p) An application for an onsite sewage treatment and  
739 disposal system permit shall be completed in full, signed by the  
740 owner or the owner's authorized representative, or by a  
741 contractor licensed under chapter 489, and shall be accompanied  
742 by all required exhibits and fees. No specific documentation of  
743 property ownership shall be required as a prerequisite to the  
744 review of an application or the issuance of a permit. The  
745 issuance of a permit does not constitute determination by the  
746 department of property ownership.

747 (q) The department may not require any form of subdivision  
748 analysis of property by an owner, developer, or subdivider prior  
749 to submission of an application for an onsite sewage treatment  
750 and disposal system.

751 (r) Nothing in this section limits the power of a  
752 municipality or county to enforce other laws for the protection  
753 of the public health and safety.

754 (s) In the siting of onsite sewage treatment and disposal  
755 systems, including drainfields, shoulders, and slopes, guttering  
756 ~~may shall~~ not be required on single-family residential dwelling  
757 units for systems located greater than 5 feet from the roof drip  
758 line of the house. If guttering is used on residential dwelling  
759 units, the downspouts shall be directed away from the  
760 drainfield.

761 (t) Notwithstanding ~~the provisions of~~ subparagraph (g)1.,  
762 onsite sewage treatment and disposal systems located in  
763 floodways of the Suwannee and Aucilla Rivers must adhere to the  
764 following requirements:



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765           1. The absorption surface of the drainfield may ~~shall~~ not  
766 be subject to flooding based on 10-year flood elevations.  
767 Provided, however, for lots or parcels created by the  
768 subdivision of land in accordance with applicable local  
769 government regulations prior to January 17, 1990, if an  
770 applicant cannot construct a drainfield system with the  
771 absorption surface of the drainfield at an elevation equal to or  
772 above 10-year flood elevation, the department shall issue a  
773 permit for an onsite sewage treatment and disposal system within  
774 the 10-year floodplain of rivers, streams, and other bodies of  
775 flowing water if all of the following criteria are met:

776           a. The lot is at least one-half acre in size;  
777           b. The bottom of the drainfield is at least 36 inches above  
778 the 2-year flood elevation; and

779           c. The applicant installs either: a waterless,  
780 incinerating, or organic waste composting toilet and a graywater  
781 system and drainfield in accordance with department rules; an  
782 aerobic treatment unit and drainfield in accordance with  
783 department rules; a system ~~approved by the State Health Office~~  
784 that is capable of reducing effluent nitrate by at least 50  
785 percent in accordance with department rules; or a system other  
786 than a system using alternative drainfield materials in  
787 accordance with department rules ~~approved by the county health~~  
788 ~~department pursuant to department rule other than a system using~~  
789 ~~alternative drainfield materials~~. The United States Department  
790 of Agriculture Soil Conservation Service soil maps, State of  
791 Florida Water Management District data, and Federal Emergency  
792 Management Agency Flood Insurance maps are resources that shall  
793 be used to identify flood-prone areas.



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794           2. The use of fill or mounding to elevate a drainfield  
795 system out of the 10-year floodplain of rivers, streams, or  
796 other bodies of flowing water may ~~shall~~ not be permitted if such  
797 a system lies within a regulatory floodway of the Suwannee and  
798 Aucilla Rivers. In cases where the 10-year flood elevation does  
799 not coincide with the boundaries of the regulatory floodway, the  
800 regulatory floodway will be considered for the purposes of this  
801 subsection to extend at a minimum to the 10-year flood  
802 elevation.

803           (u)1. The owner of an aerobic treatment unit system shall  
804 maintain a current maintenance service agreement with an aerobic  
805 treatment unit maintenance entity permitted by the department.  
806 The maintenance entity shall inspect each aerobic treatment unit  
807 system at least twice each year and shall report quarterly to  
808 the department on the number of aerobic treatment unit systems  
809 inspected and serviced. The reports may be submitted  
810 electronically.

811           2. The property owner of an owner-occupied, single-family  
812 residence may be approved and permitted by the department as a  
813 maintenance entity for his or her own aerobic treatment unit  
814 system upon written certification from the system manufacturer's  
815 approved representative that the property owner has received  
816 training on the proper installation and service of the system.  
817 The maintenance entity service agreement must conspicuously  
818 disclose that the property owner has the right to maintain his  
819 or her own system and is exempt from contractor registration  
820 requirements for performing construction, maintenance, or  
821 repairs on the system but is subject to all permitting  
822 requirements.



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823           3. A septic tank contractor licensed under part III of  
824 chapter 489, if approved by the manufacturer, may not be denied  
825 access by the manufacturer to aerobic treatment unit system  
826 training or spare parts for maintenance entities. After the  
827 original warranty period, component parts for an aerobic  
828 treatment unit system may be replaced with parts that meet  
829 manufacturer's specifications but are manufactured by others.  
830 The maintenance entity shall maintain documentation of the  
831 substitute part's equivalency for 2 years and shall provide such  
832 documentation to the department upon request.

833           4. The owner of an aerobic treatment unit system shall  
834 obtain a system operating permit from the department and allow  
835 the department to inspect during reasonable hours each aerobic  
836 treatment unit system at least annually, and such inspection may  
837 include collection and analysis of system-effluent samples for  
838 performance criteria established by rule of the department.

839           (v) The department may require the submission of detailed  
840 system construction plans that are prepared by a professional  
841 engineer registered in this state. The department shall  
842 establish by rule criteria for determining when such a  
843 submission is required.

844           (w) Any permit issued and approved by the department for  
845 the installation, modification, or repair of an onsite sewage  
846 treatment and disposal system shall transfer with the title to  
847 the property in a real estate transaction. A title may not be  
848 encumbered at the time of transfer by new permit requirements by  
849 a governmental entity for an onsite sewage treatment and  
850 disposal system which differ from the permitting requirements in  
851 effect at the time the system was permitted, modified, or



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852 repaired. An inspection of a system may not be mandated by a  
853 governmental entity at the point of sale in a real estate  
854 transaction. This paragraph does not affect a septic tank phase-  
855 out deferral program implemented by a consolidated government as  
856 defined in s. 9, Art. VIII of the State Constitution (1885).

857 (x) A governmental entity, including a municipality,  
858 county, or statutorily created commission, may not require an  
859 engineer-designed performance-based treatment system, excluding  
860 a passive engineer-designed performance-based treatment system,  
861 before the completion of the Florida Onsite Sewage Nitrogen  
862 Reduction Strategies Project. This paragraph does not apply to a  
863 governmental entity, including a municipality, county, or  
864 statutorily created commission, which adopted a local law,  
865 ordinance, or regulation on or before January 31, 2012.  
866 Notwithstanding this paragraph, an engineer-designed  
867 performance-based treatment system may be used to meet the  
868 requirements of the variance review and advisory committee  
869 recommendations.

870 (y)1. An onsite sewage treatment and disposal system is not  
871 considered abandoned if the system is disconnected from a  
872 structure that was made unusable or destroyed following a  
873 disaster and if the system was properly functioning at the time  
874 of disconnection and was not adversely affected by the disaster.  
875 The onsite sewage treatment and disposal system may be  
876 reconnected to a rebuilt structure if:

877 a. The reconnection of the system is to the same type of  
878 structure which contains the same number of bedrooms or fewer,  
879 if the square footage of the structure is less than or equal to  
880 110 percent of the original square footage of the structure that



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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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910 of the remodeling addition or modification to the home from the  
911 onsite sewage treatment and disposal system. The local health  
912 department may visit the site or otherwise determine the best  
913 means of verifying the information submitted. A verification of  
914 the location of a system is not an inspection or evaluation and  
915 assessment of the system. The review and verification must be  
916 completed within 7 business days after receipt by the local  
917 health department of a floor plan and site plan. If the review  
918 and verification is not completed within such time, the  
919 remodeling addition or modification to the single-family home,  
920 for the purposes of this paragraph, is approved.

921 Section 7. Section 381.00652, Florida Statutes, is created  
922 to read:

923 381.00652 Onsite sewage treatment and disposal systems  
924 technical advisory committee.—

925 (1) An onsite sewage treatment and disposal systems  
926 technical advisory committee, a committee as defined in s.  
927 20.03(8), is created within the department. The committee shall:

928 (a) Provide recommendations to increase the availability in  
929 the marketplace of enhanced nutrient-reducing onsite sewage  
930 treatment and disposal systems, including systems that are cost-  
931 effective, low-maintenance, and reliable.

932 (b) Consider and recommend regulatory options, such as  
933 fast-track approval, prequalification, or expedited permitting,  
934 to facilitate the introduction and use of enhanced nutrient-  
935 reducing onsite sewage treatment and disposal systems that have  
936 been reviewed and approved by a national agency or organization,  
937 such as the American National Standards Institute 245 systems  
938 approved by the NSF International.





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939           (c) Provide recommendations for appropriate setback  
940 distances for onsite sewage treatment and disposal systems from  
941 surface water, groundwater, and wells.

942           (2) The department shall use existing and available  
943 resources to administer and support the activities of the  
944 committee.

945           (3) (a) By August 1, 2021, the department, in consultation  
946 with the Department of Health, shall appoint no more than nine  
947 members to the committee, including, but not limited to, the  
948 following:

- 949           1. A professional engineer.  
950           2. A septic tank contractor.  
951           3. A representative from the home building industry.  
952           4. A representative from the real estate industry.  
953           5. A representative from the onsite sewage treatment and  
954 disposal system industry.  
955           6. A representative from local government.  
956           7. Two representatives from the environmental community.  
957           8. A representative of the scientific and technical  
958 community who has substantial expertise in the areas of the fate  
959 and transport of water pollutants, toxicology, epidemiology,  
960 geology, biology, or environmental sciences.

961           (b) Members shall serve without compensation and are not  
962 entitled to reimbursement for per diem or travel expenses.

963           (4) By January 1, 2022, the committee shall submit its  
964 recommendations to the Governor, the President of the Senate,  
965 and the Speaker of the House of Representatives.

966           (5) This section expires August 15, 2022.

967           (6) For purposes of this section, the term "department"



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968 means the Department of Environmental Protection.

969 Section 8. Effective July 1, 2021, section 381.0068,  
970 Florida Statutes, is repealed.

971 Section 9. Present subsections (14) through (44) of section  
972 403.061, Florida Statutes, are redesignated as subsections (15)  
973 through (45), respectively, a new subsection (14) is added to  
974 that section, and subsection (7) of that section is amended, to  
975 read:

976 403.061 Department; powers and duties.—The department shall  
977 have the power and the duty to control and prohibit pollution of  
978 air and water in accordance with the law and rules adopted and  
979 promulgated by it and, for this purpose, to:

980 (7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
981 ~~implement the provisions of~~ this act. Any rule adopted pursuant  
982 to this act must ~~shall~~ be consistent with the provisions of  
983 federal law, if any, relating to control of emissions from motor  
984 vehicles, effluent limitations, pretreatment requirements, or  
985 standards of performance. A ~~No~~ county, municipality, or  
986 political subdivision may not ~~shall~~ adopt or enforce any local  
987 ordinance, special law, or local regulation requiring the  
988 installation of Stage II vapor recovery systems, as currently  
989 defined by department rule, unless such county, municipality, or  
990 political subdivision is or has been in the past designated by  
991 federal regulation as a moderate, serious, or severe ozone  
992 nonattainment area. Rules adopted pursuant to this act may ~~shall~~  
993 not require dischargers of waste into waters of the state to  
994 improve natural background conditions. The department shall  
995 adopt rules to reasonably limit, reduce, and eliminate domestic  
996 wastewater collection and transmission system pipe leakages and



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997 inflow and infiltration. Discharges from steam electric  
998 generating plants existing or licensed under this chapter on  
999 July 1, 1984, may ~~shall~~ not be required to be treated to a  
1000 greater extent than may be necessary to assure that the quality  
1001 of nonthermal components of discharges from nonrecirculated  
1002 cooling water systems is as high as the quality of the makeup  
1003 waters; that the quality of nonthermal components of discharges  
1004 from recirculated cooling water systems is no lower than is  
1005 allowed for blowdown from such systems; or that the quality of  
1006 noncooling system discharges which receive makeup water from a  
1007 receiving body of water which does not meet applicable  
1008 department water quality standards is as high as the quality of  
1009 the receiving body of water. The department may not adopt  
1010 standards more stringent than federal regulations, except as  
1011 provided in s. 403.804.

1012 (14) In order to promote resilient utilities, require  
1013 public utilities or their affiliated companies holding, applying  
1014 for, or renewing a domestic wastewater discharge permit to file  
1015 annual reports and other data regarding transactions or  
1016 allocations of common costs and expenditures on pollution  
1017 mitigation and prevention among the utility's permitted systems,  
1018 including, but not limited to, the prevention of sanitary sewer  
1019 overflows, collection and transmission system pipe leakages, and  
1020 inflow and infiltration. The department shall adopt rules to  
1021 implement this subsection.

1022  
1023 The department shall implement such programs in conjunction with  
1024 its other powers and duties and shall place special emphasis on  
1025 reducing and eliminating contamination that presents a threat to



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1026 humans, animals or plants, or to the environment.

1027 Section 10. Section 403.0616, Florida Statutes, is created  
1028 to read:

1029 403.0616 Real-time water quality monitoring program.-

1030 (1) Subject to appropriation, the department shall  
1031 establish a real-time water quality monitoring program to assist  
1032 in the restoration, preservation, and enhancement of impaired  
1033 waterbodies and coastal resources.

1034 (2) In order to expedite the creation and implementation of  
1035 the program, the department is encouraged to form public-private  
1036 partnerships with established scientific entities that have  
1037 proven existing real-time water quality monitoring equipment and  
1038 experience in deploying the equipment.

1039 Section 11. Subsection (7) of section 403.067, Florida  
1040 Statutes, is amended to read:

1041 403.067 Establishment and implementation of total maximum  
1042 daily loads.-

1043 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND  
1044 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.-

1045 (a) *Basin management action plans.-*

1046 1. In developing and implementing the total maximum daily  
1047 load for a water body, the department, or the department in  
1048 conjunction with a water management district, may develop a  
1049 basin management action plan that addresses some or all of the  
1050 watersheds and basins tributary to the water body. Such plan  
1051 must integrate the appropriate management strategies available  
1052 to the state through existing water quality protection programs  
1053 to achieve the total maximum daily loads and may provide for  
1054 phased implementation of these management strategies to promote



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1055 timely, cost-effective actions as provided for in s. 403.151.  
1056 The plan must establish a schedule implementing the management  
1057 strategies, establish a basis for evaluating the plan's  
1058 effectiveness, and identify feasible funding strategies for  
1059 implementing the plan's management strategies. The management  
1060 strategies may include regional treatment systems or other  
1061 public works, where appropriate, and voluntary trading of water  
1062 quality credits to achieve the needed pollutant load reductions.

1063 2. A basin management action plan must equitably allocate,  
1064 pursuant to paragraph (6) (b), pollutant reductions to individual  
1065 basins, as a whole to all basins, or to each identified point  
1066 source or category of nonpoint sources, as appropriate. For  
1067 nonpoint sources for which best management practices have been  
1068 adopted, the initial requirement specified by the plan must be  
1069 those practices developed pursuant to paragraph (c). When ~~Where~~  
1070 appropriate, the plan may take into account the benefits of  
1071 pollutant load reduction achieved by point or nonpoint sources  
1072 that have implemented management strategies to reduce pollutant  
1073 loads, including best management practices, before the  
1074 development of the basin management action plan. The plan must  
1075 also identify the mechanisms that will address potential future  
1076 increases in pollutant loading.

1077 3. The basin management action planning process is intended  
1078 to involve the broadest possible range of interested parties,  
1079 with the objective of encouraging the greatest amount of  
1080 cooperation and consensus possible. In developing a basin  
1081 management action plan, the department shall assure that key  
1082 stakeholders, including, but not limited to, applicable local  
1083 governments, water management districts, the Department of



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1084 Agriculture and Consumer Services, other appropriate state  
1085 agencies, local soil and water conservation districts,  
1086 environmental groups, regulated interests, and affected  
1087 pollution sources, are invited to participate in the process.  
1088 The department shall hold at least one public meeting in the  
1089 vicinity of the watershed or basin to discuss and receive  
1090 comments during the planning process and shall otherwise  
1091 encourage public participation to the greatest practicable  
1092 extent. Notice of the public meeting must be published in a  
1093 newspaper of general circulation in each county in which the  
1094 watershed or basin lies at least ~~not less than~~ 5 days, but not  
1095 ~~not~~ more than 15 days, before the public meeting. A basin  
1096 management action plan does not supplant or otherwise alter any  
1097 assessment made under subsection (3) or subsection (4) or any  
1098 calculation or initial allocation.

1099 4. Each new or revised basin management action plan shall  
1100 include:

1101 a. The appropriate management strategies available through  
1102 existing water quality protection programs to achieve total  
1103 maximum daily loads, which may provide for phased implementation  
1104 to promote timely, cost-effective actions as provided for in s.  
1105 403.151;

1106 b. A description of best management practices adopted by  
1107 rule;

1108 c. A list of projects in priority ranking with a planning-  
1109 level cost estimate and estimated date of completion for each  
1110 listed project;

1111 d. The source and amount of financial assistance to be made  
1112 available by the department, a water management district, or



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1113 other entity for each listed project, if applicable; and  
1114 e. A planning-level estimate of each listed project's  
1115 expected load reduction, if applicable.  
1116 5. The department shall adopt all or any part of a basin  
1117 management action plan and any amendment to such plan by  
1118 secretarial order pursuant to chapter 120 to implement ~~the~~  
1119 ~~provisions of~~ this section.  
1120 6. The basin management action plan must include milestones  
1121 for implementation and water quality improvement, and an  
1122 associated water quality monitoring component sufficient to  
1123 evaluate whether reasonable progress in pollutant load  
1124 reductions is being achieved over time. An assessment of  
1125 progress toward these milestones shall be conducted every 5  
1126 years, and revisions to the plan shall be made as appropriate.  
1127 Revisions to the basin management action plan shall be made by  
1128 the department in cooperation with basin stakeholders. Revisions  
1129 to the management strategies required for nonpoint sources must  
1130 follow the procedures set forth in subparagraph (c)4. Revised  
1131 basin management action plans must be adopted pursuant to  
1132 subparagraph 5.  
1133 7. In accordance with procedures adopted by rule under  
1134 paragraph (9)(c), basin management action plans, and other  
1135 pollution control programs under local, state, or federal  
1136 authority as provided in subsection (4), may allow point or  
1137 nonpoint sources that will achieve greater pollutant reductions  
1138 than required by an adopted total maximum daily load or  
1139 wasteload allocation to generate, register, and trade water  
1140 quality credits for the excess reductions to enable other  
1141 sources to achieve their allocation; however, the generation of



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1142 water quality credits does not remove the obligation of a source  
1143 or activity to meet applicable technology requirements or  
1144 adopted best management practices. Such plans must allow trading  
1145 between NPDES permittees, and trading that may or may not  
1146 involve NPDES permittees, where the generation or use of the  
1147 credits involve an entity or activity not subject to department  
1148 water discharge permits whose owner voluntarily elects to obtain  
1149 department authorization for the generation and sale of credits.

1150 8. ~~The provisions of~~ The department's rule relating to the  
1151 equitable abatement of pollutants into surface waters do not  
1152 apply to water bodies or water body segments for which a basin  
1153 management plan that takes into account future new or expanded  
1154 activities or discharges has been adopted under this section.

1155 9. In order to promote resilient utilities, if the  
1156 department identifies domestic wastewater facilities or onsite  
1157 sewage treatment and disposal systems as contributors of at  
1158 least 20 percent of point source or nonpoint source nutrient  
1159 pollution or if the department determines remediation is  
1160 necessary to achieve the total maximum daily load, a basin  
1161 management action plan for a nutrient total maximum daily load  
1162 must include the following:

1163 a. A wastewater treatment plan that addresses domestic  
1164 wastewater developed by each local government in cooperation  
1165 with the department, the water management district, and the  
1166 public and private domestic wastewater facilities within the  
1167 jurisdiction of the local government. The wastewater treatment  
1168 plan must:

1169 (I) Provide for construction, expansion, or upgrades  
1170 necessary to achieve the total maximum daily load requirements





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1171 applicable to the domestic wastewater facility.

1172 (II) Include the permitted capacity in average annual  
1173 gallons per day for the domestic wastewater facility; the  
1174 average nutrient concentration and the estimated average  
1175 nutrient load of the domestic wastewater; a timeline of the  
1176 dates by which the construction of any facility improvements  
1177 will begin and be completed and the date by which operations of  
1178 the improved facility will begin; the estimated cost of the  
1179 improvements; and the identity of responsible parties.

1180  
1181 The wastewater treatment plan must be adopted as part of the  
1182 basin management action plan no later than July 1, 2025. A local  
1183 government that does not have a domestic wastewater treatment  
1184 facility in its jurisdiction is not required to develop a  
1185 wastewater treatment plan unless there is a demonstrated need to  
1186 establish a domestic wastewater treatment facility within its  
1187 jurisdiction to improve water quality necessary to achieve a  
1188 total maximum daily load. A local government is not responsible  
1189 for a private domestic wastewater facility's compliance with a  
1190 basin management action plan.

1191 b. An onsite sewage treatment and disposal system  
1192 remediation plan developed by each local government in  
1193 cooperation with the department, the Department of Health, water  
1194 management districts, and public and private domestic wastewater  
1195 facilities.

1196 (I) The onsite sewage treatment and disposal system  
1197 remediation plan must identify cost-effective and financially  
1198 feasible projects necessary to achieve the nutrient load  
1199 reductions required for onsite sewage treatment and disposal



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1200 systems. To identify cost-effective and financially feasible  
1201 projects for remediation of onsite sewage treatment and disposal  
1202 systems, the local government shall:

1203 (A) Include an inventory of onsite sewage treatment and  
1204 disposal systems based on the best information available;

1205 (B) Identify onsite sewage treatment and disposal systems  
1206 that would be eliminated through connection to existing or  
1207 future central domestic wastewater infrastructure in the  
1208 jurisdiction or domestic wastewater service area of the local  
1209 government, that would be replaced with or upgraded to enhanced  
1210 nutrient-reducing systems, or that would remain on conventional  
1211 onsite sewage treatment and disposal systems;

1212 (C) Estimate the costs of potential onsite sewage treatment  
1213 and disposal systems connections, upgrades, or replacements; and

1214 (D) Identify deadlines and interim milestones for the  
1215 planning, design, and construction of projects.

1216 (II) The department shall adopt the onsite sewage treatment  
1217 and disposal system remediation plan as part of the basin  
1218 management action plan no later than July 1, 2025, or as  
1219 required for Outstanding Florida Springs under s. 373.807.

1220 10. When identifying wastewater projects in a basin  
1221 management action plan, the department may not require the  
1222 higher cost option if it achieves the same nutrient load  
1223 reduction as a lower cost option.

1224 (b) Total maximum daily load implementation.-

1225 1. The department shall be the lead agency in coordinating  
1226 the implementation of the total maximum daily loads through  
1227 existing water quality protection programs. Application of a  
1228 total maximum daily load by a water management district must be



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1229 consistent with this section and does not require the issuance  
1230 of an order or a separate action pursuant to s. 120.536(1) or s.  
1231 120.54 for the adoption of the calculation and allocation  
1232 previously established by the department. Such programs may  
1233 include, but are not limited to:

1234 a. Permitting and other existing regulatory programs,  
1235 including water-quality-based effluent limitations;

1236 b. Nonregulatory and incentive-based programs, including  
1237 best management practices, cost sharing, waste minimization,  
1238 pollution prevention, agreements established pursuant to s.  
1239 403.061(22) ~~s. 403.061(21)~~, and public education;

1240 c. Other water quality management and restoration  
1241 activities, for example surface water improvement and management  
1242 plans approved by water management districts or basin management  
1243 action plans developed pursuant to this subsection;

1244 d. Trading of water quality credits or other equitable  
1245 economically based agreements;

1246 e. Public works including capital facilities; or

1247 f. Land acquisition.

1248 2. For a basin management action plan adopted pursuant to  
1249 paragraph (a), any management strategies and pollutant reduction  
1250 requirements associated with a pollutant of concern for which a  
1251 total maximum daily load has been developed, including effluent  
1252 limits set forth for a discharger subject to NPDES permitting,  
1253 if any, must be included in a timely manner in subsequent NPDES  
1254 permits or permit modifications for that discharger. The  
1255 department may not impose limits or conditions implementing an  
1256 adopted total maximum daily load in an NPDES permit until the  
1257 permit expires, the discharge is modified, or the permit is



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1258 reopened pursuant to an adopted basin management action plan.

1259       a. Absent a detailed allocation, total maximum daily loads  
1260 must be implemented through NPDES permit conditions that provide  
1261 for a compliance schedule. In such instances, a facility's NPDES  
1262 permit must allow time for the issuance of an order adopting the  
1263 basin management action plan. The time allowed for the issuance  
1264 of an order adopting the plan may not exceed 5 years. Upon  
1265 issuance of an order adopting the plan, the permit must be  
1266 reopened or renewed, as necessary, and permit conditions  
1267 consistent with the plan must be established. Notwithstanding  
1268 the other provisions of this subparagraph, upon request by an  
1269 NPDES permittee, the department as part of a permit issuance,  
1270 renewal, or modification may establish individual allocations  
1271 before the adoption of a basin management action plan.

1272       b. For holders of NPDES municipal separate storm sewer  
1273 system permits and other stormwater sources, implementation of a  
1274 total maximum daily load or basin management action plan must be  
1275 achieved, to the maximum extent practicable, through the use of  
1276 best management practices or other management measures.

1277       c. The basin management action plan does not relieve the  
1278 discharger from any requirement to obtain, renew, or modify an  
1279 NPDES permit or to abide by other requirements of the permit.

1280       d. Management strategies set forth in a basin management  
1281 action plan to be implemented by a discharger subject to  
1282 permitting by the department must be completed pursuant to the  
1283 schedule set forth in the basin management action plan. This  
1284 implementation schedule may extend beyond the 5-year term of an  
1285 NPDES permit.

1286       e. Management strategies and pollution reduction



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1287 requirements set forth in a basin management action plan for a  
1288 specific pollutant of concern are not subject to challenge under  
1289 chapter 120 at the time they are incorporated, in an identical  
1290 form, into a subsequent NPDES permit or permit modification.

1291 f. For nonagricultural pollutant sources not subject to  
1292 NPDES permitting but permitted pursuant to other state,  
1293 regional, or local water quality programs, the pollutant  
1294 reduction actions adopted in a basin management action plan must  
1295 be implemented to the maximum extent practicable as part of  
1296 those permitting programs.

1297 g. A nonpoint source discharger included in a basin  
1298 management action plan must demonstrate compliance with the  
1299 pollutant reductions established under subsection (6) by  
1300 implementing the appropriate best management practices  
1301 established pursuant to paragraph (c) or conducting water  
1302 quality monitoring prescribed by the department or a water  
1303 management district. A nonpoint source discharger may, in  
1304 accordance with department rules, supplement the implementation  
1305 of best management practices with water quality credit trades in  
1306 order to demonstrate compliance with the pollutant reductions  
1307 established under subsection (6).

1308 h. A nonpoint source discharger included in a basin  
1309 management action plan may be subject to enforcement action by  
1310 the department or a water management district based upon a  
1311 failure to implement the responsibilities set forth in sub-  
1312 subparagraph g.

1313 i. A landowner, discharger, or other responsible person who  
1314 is implementing applicable management strategies specified in an  
1315 adopted basin management action plan may not be required by



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1316 permit, enforcement action, or otherwise to implement additional  
1317 management strategies, including water quality credit trading,  
1318 to reduce pollutant loads to attain the pollutant reductions  
1319 established pursuant to subsection (6) and shall be deemed to be  
1320 in compliance with this section. This subparagraph does not  
1321 limit the authority of the department to amend a basin  
1322 management action plan as specified in subparagraph (a)6.

1323 (c) *Best management practices.*—

1324 1. The department, in cooperation with the water management  
1325 districts and other interested parties, as appropriate, may  
1326 develop suitable interim measures, best management practices, or  
1327 other measures necessary to achieve the level of pollution  
1328 reduction established by the department for nonagricultural  
1329 nonpoint pollutant sources in allocations developed pursuant to  
1330 subsection (6) and this subsection. These practices and measures  
1331 may be adopted by rule by the department and the water  
1332 management districts and, where adopted by rule, shall be  
1333 implemented by those parties responsible for nonagricultural  
1334 nonpoint source pollution.

1335 2. The Department of Agriculture and Consumer Services may  
1336 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
1337 suitable interim measures, best management practices, or other  
1338 measures necessary to achieve the level of pollution reduction  
1339 established by the department for agricultural pollutant sources  
1340 in allocations developed pursuant to subsection (6) and this  
1341 subsection or for programs implemented pursuant to paragraph  
1342 (12) (b). These practices and measures may be implemented by  
1343 those parties responsible for agricultural pollutant sources and  
1344 the department, the water management districts, and the



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1345 Department of Agriculture and Consumer Services shall assist  
1346 with implementation. In the process of developing and adopting  
1347 rules for interim measures, best management practices, or other  
1348 measures, the Department of Agriculture and Consumer Services  
1349 shall consult with the department, the Department of Health, the  
1350 water management districts, representatives from affected  
1351 farming groups, and environmental group representatives. Such  
1352 rules must also incorporate provisions for a notice of intent to  
1353 implement the practices and a system to assure the  
1354 implementation of the practices, including site inspection and  
1355 recordkeeping requirements.

1356         3. Where interim measures, best management practices, or  
1357 other measures are adopted by rule, the effectiveness of such  
1358 practices in achieving the levels of pollution reduction  
1359 established in allocations developed by the department pursuant  
1360 to subsection (6) and this subsection or in programs implemented  
1361 pursuant to paragraph (12)(b) must be verified at representative  
1362 sites by the department. The department shall use best  
1363 professional judgment in making the initial verification that  
1364 the best management practices are reasonably expected to be  
1365 effective and, where applicable, must notify the appropriate  
1366 water management district or the Department of Agriculture and  
1367 Consumer Services of its initial verification before the  
1368 adoption of a rule proposed pursuant to this paragraph.  
1369 Implementation, in accordance with rules adopted under this  
1370 paragraph, of practices that have been initially verified to be  
1371 effective, or verified to be effective by monitoring at  
1372 representative sites, by the department, shall provide a  
1373 presumption of compliance with state water quality standards and



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1374 release from ~~the provisions of~~ s. 376.307(5) for those  
1375 pollutants addressed by the practices, and the department is not  
1376 authorized to institute proceedings against the owner of the  
1377 source of pollution to recover costs or damages associated with  
1378 the contamination of surface water or groundwater caused by  
1379 those pollutants. Research projects funded by the department, a  
1380 water management district, or the Department of Agriculture and  
1381 Consumer Services to develop or demonstrate interim measures or  
1382 best management practices shall be granted a presumption of  
1383 compliance with state water quality standards and a release from  
1384 ~~the provisions of~~ s. 376.307(5). The presumption of compliance  
1385 and release is limited to the research site and only for those  
1386 pollutants addressed by the interim measures or best management  
1387 practices. Eligibility for the presumption of compliance and  
1388 release is limited to research projects on sites where the owner  
1389 or operator of the research site and the department, a water  
1390 management district, or the Department of Agriculture and  
1391 Consumer Services have entered into a contract or other  
1392 agreement that, at a minimum, specifies the research objectives,  
1393 the cost-share responsibilities of the parties, and a schedule  
1394 that details the beginning and ending dates of the project.

1395 4. Where water quality problems are demonstrated, despite  
1396 the appropriate implementation, operation, and maintenance of  
1397 best management practices and other measures required by rules  
1398 adopted under this paragraph, the department, a water management  
1399 district, or the Department of Agriculture and Consumer  
1400 Services, in consultation with the department, shall institute a  
1401 reevaluation of the best management practice or other measure.  
1402 Should the reevaluation determine that the best management





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1403 practice or other measure requires modification, the department,  
1404 a water management district, or the Department of Agriculture  
1405 and Consumer Services, as appropriate, shall revise the rule to  
1406 require implementation of the modified practice within a  
1407 reasonable time period as specified in the rule.

1408 5. Subject to subparagraph 6., the Department of  
1409 Agriculture and Consumer Services shall provide to the  
1410 department information that it obtains pursuant to subparagraph  
1411 (d)3.

1412 6. Agricultural records relating to processes or methods of  
1413 production, costs of production, profits, or other financial  
1414 information held by the Department of Agriculture and Consumer  
1415 Services pursuant to subparagraphs 3., and 4., and 5. or  
1416 pursuant to any rule adopted pursuant to subparagraph 2. are  
1417 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
1418 of the State Constitution. Upon request, records made  
1419 confidential and exempt pursuant to this subparagraph shall be  
1420 released to the department or any water management district  
1421 provided that the confidentiality specified by this subparagraph  
1422 for such records is maintained.

1423 7.6. The provisions of Subparagraphs 1. and 2. do not  
1424 preclude the department or water management district from  
1425 requiring compliance with water quality standards or with  
1426 current best management practice requirements set forth in any  
1427 applicable regulatory program authorized by law for the purpose  
1428 of protecting water quality. Additionally, subparagraphs 1. and  
1429 2. are applicable only to the extent that they do not conflict  
1430 with any rules adopted by the department that are necessary to  
1431 maintain a federally delegated or approved program.



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1432           (d) *Enforcement and verification of basin management action*  
1433 *plans and management strategies.*—

1434           1. Basin management action plans are enforceable pursuant  
1435 to this section and ss. 403.121, 403.141, and 403.161.

1436 Management strategies, including best management practices and  
1437 water quality monitoring, are enforceable under this chapter.

1438           2. No later than January 1, 2017:

1439           a. The department, in consultation with the water  
1440 management districts and the Department of Agriculture and  
1441 Consumer Services, shall initiate rulemaking to adopt procedures  
1442 to verify implementation of water quality monitoring required in  
1443 lieu of implementation of best management practices or other  
1444 measures pursuant to sub-subparagraph (b)2.g.;

1445           b. The department, in consultation with the water  
1446 management districts and the Department of Agriculture and  
1447 Consumer Services, shall initiate rulemaking to adopt procedures  
1448 to verify implementation of nonagricultural interim measures,  
1449 best management practices, or other measures adopted by rule  
1450 pursuant to subparagraph (c)1.; and

1451           c. The Department of Agriculture and Consumer Services, in  
1452 consultation with the water management districts and the  
1453 department, shall initiate rulemaking to adopt procedures to  
1454 verify implementation of agricultural interim measures, best  
1455 management practices, or other measures adopted by rule pursuant  
1456 to subparagraph (c)2.

1457  
1458 The rules required under this subparagraph shall include  
1459 enforcement procedures applicable to the landowner, discharger,  
1460 or other responsible person required to implement applicable



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1461 management strategies, including best management practices or  
1462 water quality monitoring as a result of noncompliance.

1463 3. At least every 2 years, the Department of Agriculture  
1464 and Consumer Services shall perform onsite inspections of each  
1465 agricultural producer that enrolls in a best management practice  
1466 to ensure that such practice is being properly implemented. Such  
1467 verification must include a collection and review of the best  
1468 management practice documentation from the previous 2 years  
1469 required by rule adopted in accordance with subparagraph (c)2.,  
1470 including, but not limited to, nitrogen and phosphorous  
1471 fertilizer application records, which must be collected and  
1472 retained pursuant to subparagraphs (c)3., 4., and 6. The  
1473 Department of Agriculture and Consumer Services shall initially  
1474 prioritize the inspection of agricultural producers located in a  
1475 basin management action plan for Lake Okeechobee or the Indian  
1476 River Lagoon.

1477 (e) Data collection and research.—

1478 1. The Department of Agriculture and Consumer Services, the  
1479 University of Florida Institute of Food and Agricultural  
1480 Sciences, and other state universities and Florida College  
1481 System institutions with agricultural research programs shall  
1482 annually develop research plans and legislative budget requests  
1483 to:

1484 a. Evaluate and suggest enhancements to the existing  
1485 adopted agricultural best management practices to reduce  
1486 nutrients;

1487 b. Develop new best management practices that, if proven  
1488 effective, the Department of Agriculture and Consumer Services  
1489 may adopt by rule pursuant to paragraph (c); and



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1490 c. Develop agricultural nutrient reduction projects that  
1491 willing participants could implement on a site-specific,  
1492 cooperative basis, in addition to best management practices. The  
1493 department may consider these projects for inclusion in a basin  
1494 management action plan. These nutrient reduction projects must  
1495 reduce the nutrient impacts from agricultural operations on  
1496 water quality when evaluated with the projects and management  
1497 strategies currently included in the basin management action  
1498 plan.

1499 2. To be considered for funding, the University of Florida  
1500 Institute of Food and Agricultural Sciences and other state  
1501 universities and Florida College System institutions that have  
1502 agricultural research programs must submit such plans to the  
1503 department and the Department of Agriculture and Consumer  
1504 Services by August 1 of each year.

1505 Section 12. Section 403.0671, Florida Statutes, is created  
1506 to read:

1507 403.0671 Basin management action plan wastewater reports.-

1508 (1) By July 1, 2021, the department, in coordination with  
1509 the county health departments, wastewater treatment facilities,  
1510 and other governmental entities, shall submit a report to the  
1511 Governor, the President of the Senate, and the Speaker of the  
1512 House of Representatives evaluating the costs of wastewater  
1513 projects identified in the basin management action plans  
1514 developed pursuant to ss. 373.807 and 403.067(7) and the onsite  
1515 sewage treatment and disposal system remediation plans and other  
1516 restoration plans developed to meet the total maximum daily  
1517 loads required under s. 403.067. The report must include:

1518 (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:



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1548           (a) Evaluate the water quality monitoring prescribed for  
1549 each basin management action plan to determine if it is  
1550 sufficient to detect changes in water quality caused by the  
1551 implementation of a project.

1552           (b) Identify gaps in water quality monitoring.

1553           (c) Recommend ways to address water quality monitoring  
1554 needs.

1555           (3) Beginning January 1, 2022, and each January 1  
1556 thereafter, the department shall submit to the Office of  
1557 Economic and Demographic Research the cost estimates for  
1558 projects required under s. 403.067(7)(a)9. The office shall  
1559 include the project cost estimates in its annual assessment  
1560 conducted pursuant to s. 403.928.

1561           Section 13. Section 403.0673, Florida Statutes, is created  
1562 to read:

1563           403.0673 Wastewater grant program.—A wastewater grant  
1564 program is established within the Department of Environmental  
1565 Protection.

1566           (1) Subject to the appropriation of funds by the  
1567 Legislature, the department may provide grants for the following  
1568 projects within a basin management action plan, an alternative  
1569 restoration plan adopted by final order, or a rural area of  
1570 opportunity under s. 288.0656 which will individually or  
1571 collectively reduce excess nutrient pollution:

1572           (a) Projects to retrofit onsite sewage treatment and  
1573 disposal systems to upgrade them to enhanced nutrient-reducing  
1574 onsite sewage treatment and disposal systems.

1575           (b) Projects to construct, upgrade, or expand facilities to  
1576 provide advanced waste treatment, as defined in s. 403.086(4).



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1577 (c) Projects to connect onsite sewage treatment and  
1578 disposal systems to central sewer facilities.

1579 (2) In allocating such funds, priority must be given to  
1580 projects that subsidize the connection of onsite sewage  
1581 treatment and disposal systems to wastewater treatment plants.  
1582 First priority must be given to subsidize connection to existing  
1583 infrastructure. Second priority must be given to any expansion  
1584 of a collection or transmission system that promotes efficiency  
1585 by planning the installation of wastewater transmission  
1586 facilities to be constructed concurrently with other  
1587 construction projects occurring within or along a transportation  
1588 facility right-of-way. Third priority must be given to all other  
1589 connection of onsite sewage treatment and disposal systems to a  
1590 wastewater treatment plants. The department shall consider the  
1591 estimated reduction in nutrient load per project; project  
1592 readiness; cost-effectiveness of the project; overall  
1593 environmental benefit of a project; the location of a project;  
1594 the availability of local matching funds; and projected water  
1595 savings or quantity improvements associated with a project.

1596 (3) Each grant for a project described in subsection (1)  
1597 must require a minimum of a 50 percent local match of funds.  
1598 However, the department may, at its discretion, waive, in whole  
1599 or in part, this consideration of the local contribution for  
1600 proposed projects within an area designated as a rural area of  
1601 opportunity under s. 288.0656.

1602 (4) The department shall coordinate with each water  
1603 management district, as necessary, to identify grant recipients  
1604 in each district.

1605 (5) Beginning January 1, 2021, and each January 1



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1606 thereafter, the department shall submit a report regarding the  
1607 projects funded pursuant to this section to the Governor, the  
1608 President of the Senate, and the Speaker of the House of  
1609 Representatives.

1610 Section 14. Section 403.0855, Florida Statutes, is created  
1611 to read:

1612 403.0855 Biosolids management.-

1613 (1) The Legislature finds that it is in the best interest  
1614 of this state to regulate biosolids management in order to  
1615 minimize the migration of nutrients that impair waterbodies. The  
1616 Legislature further finds that the expedited implementation of  
1617 the recommendations of the Biosolids Technical Advisory  
1618 Committee, including permitting according to site-specific  
1619 application conditions, an increased inspection rate,  
1620 groundwater and surface water monitoring protocols, and nutrient  
1621 management research, will improve biosolids management and  
1622 assist in protecting this state's water resources and water  
1623 quality.

1624 (2) The department shall adopt rules for biosolids  
1625 management.

1626 (3) Effective July 1, 2020, all biosolids application sites  
1627 must:

1628 (a) For any renewal application, meet department rules in  
1629 effect at the time of the renewal of the biosolids application  
1630 site permit or facility permit.

1631 (b) Be enrolled in the Department of Agriculture and  
1632 Consumer Service's Best Management Practices Program or be  
1633 within an agricultural operation enrolled in the program for the  
1634 applicable commodity type.





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1635           (4) The permittee of a biosolids land application site  
1636 shall:  
1637           (a) Conduct the land application of biosolids in accordance  
1638 with basin management action plans adopted in accordance with  
1639 ss. 373.807 and 403.067(7).  
1640           (b) Establish a groundwater monitoring program approved by  
1641 the department for land application sites when:  
1642           1. The application rate in the nutrient management plan  
1643 exceeds more than 160,400 pounds per acre per year of total  
1644 plant available nitrogen or 40 pounds per acre per year of total  
1645 P2O5; or  
1646           2. The soil capacity index is less than 0 mg/kg.  
1647           (c) When soil fertility testing indicates the soil capacity  
1648 index has become less than 0 mg/kg, establish a groundwater  
1649 monitoring program in accordance with department rules within 1  
1650 year of the date of the sampling results.  
1651           (d) When groundwater monitoring is not required, allow the  
1652 department to install groundwater monitoring wells at any time  
1653 during the effective period of the department-issued facility or  
1654 land application site permit and conduct monitoring.  
1655           (e) Ensure a minimum unsaturated soil depth of 2 feet  
1656 between the depth of biosolids placement and the water table  
1657 level at the time the Class A or Class B biosolids are applied  
1658 to the soil. Biosolids may not be applied on soils that have a  
1659 seasonal high-water table less than 15 centimeters from the soil  
1660 surface or within 15 centimeters of the intended depth of  
1661 biosolids placement. As used in this section, the term "seasonal  
1662 high water" means the elevation to which the ground and surface  
1663 water may be expected to rise due to a normal wet season.



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1664           (5) A municipality or county may enforce or extend an  
1665 ordinance, a regulation, a resolution, a rule, a moratorium, or  
1666 a policy, any of which was adopted before November 1, 2019,  
1667 relating to the land application of Class B biosolids until the  
1668 ordinance, regulation, resolution, rule, moratorium, or policy  
1669 is repealed by the municipality or county.

1670           Section 15. Present subsections (7) through (10) of section  
1671 403.086, Florida Statutes, are redesignated as subsections (8)  
1672 through (11), respectively, a new subsection (7) is added to  
1673 that section, paragraph (c) of subsection (1) and subsection (2)  
1674 of that section are amended, and paragraph (d) is added to  
1675 subsection (1), to read:

1676           403.086 Sewage disposal facilities; advanced and secondary  
1677 waste treatment.—

1678           (1)

1679           (c) Notwithstanding ~~any other provisions of~~ this chapter or  
1680 chapter 373, facilities for sanitary sewage disposal may not  
1681 dispose of any wastes into Old Tampa Bay, Tampa Bay,  
1682 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater  
1683 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,  
1684 ~~or~~ Charlotte Harbor Bay, or, beginning July 1, 2025, Indian  
1685 River Lagoon, or into any river, stream, channel, canal, bay,  
1686 bayou, sound, or other water tributary thereto, without  
1687 providing advanced waste treatment, as defined in subsection  
1688 (4), approved by the department. This paragraph does ~~shall~~ not  
1689 apply to facilities which were permitted by February 1, 1987,  
1690 and which discharge secondary treated effluent, followed by  
1691 water hyacinth treatment, to tributaries of tributaries of the  
1692 named waters; or to facilities permitted to discharge to the



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1693 nontidally influenced portions of the Peace River.

1694 (d) By December 31, 2020, the department, in consultation  
1695 with the water management districts and sewage disposal  
1696 facilities, shall submit to the Governor, the President of the  
1697 Senate, and the Speaker of the House of Representatives a  
1698 progress report on the status of upgrades made by each facility  
1699 to meet the advanced waste treatment requirements under  
1700 paragraph (c). The report must include a list of sewage disposal  
1701 facilities required to upgrade to advanced waste treatment, the  
1702 preliminary cost estimates for the upgrades, and a projected  
1703 timeline of the dates by which the upgrades will begin and be  
1704 completed and the date by which operations of the upgraded  
1705 facility will begin.

1706 (2) Any facilities for sanitary sewage disposal shall  
1707 provide for secondary waste treatment, a power outage  
1708 contingency plan that mitigates the impacts of power outages on  
1709 the utility's collection system and pump stations, and, ~~in~~  
1710 ~~addition thereto,~~ advanced waste treatment as deemed necessary  
1711 and ordered by the Department of Environmental Protection.  
1712 Failure to conform is ~~shall be~~ punishable by a civil penalty of  
1713 \$500 for each 24-hour day or fraction thereof that such failure  
1714 is allowed to continue thereafter.

1715 (7) All facilities for sanitary sewage under subsection (2)  
1716 which control a collection or transmission system of pipes and  
1717 pumps to collect and transmit wastewater from domestic or  
1718 industrial sources to the facility shall take steps to prevent  
1719 sanitary sewer overflows or underground pipe leaks and ensure  
1720 that collected wastewater reaches the facility for appropriate  
1721 treatment. Facilities must use inflow and infiltration studies



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1722 and leakage surveys to develop pipe assessment, repair, and  
1723 replacement action plans that comply with department rule to  
1724 limit, reduce, and eliminate leaks, seepages, or inputs into  
1725 wastewater treatment systems' underground pipes. The pipe  
1726 assessment, repair, and replacement action plans must be  
1727 reported to the department. The facility action plan must  
1728 include information regarding the annual expenditures dedicated  
1729 to the inflow and infiltration studies and the required  
1730 replacement action plans, as well as expenditures that are  
1731 dedicated to pipe assessment, repair, and replacement. The  
1732 department shall adopt rules regarding the implementation of  
1733 inflow and infiltration studies and leakage surveys; however,  
1734 such department rules may not fix or revise utility rates or  
1735 budgets. Any entity subject to this subsection and s.  
1736 403.061(14) may submit one report to comply with both  
1737 provisions. Substantial compliance with this subsection is  
1738 evidence in mitigation for the purposes of assessing penalties  
1739 pursuant to ss. 403.121 and 403.141.

1740 Section 16. Present subsections (4) through (10) of section  
1741 403.087, Florida Statutes, are redesignated as subsections (5)  
1742 through (11), respectively, and a new subsection (4) is added to  
1743 that section, to read:

1744 403.087 Permits; general issuance; denial; revocation;  
1745 prohibition; penalty.-

1746 (4) The department shall issue an operation permit for a  
1747 domestic wastewater treatment facility other than a facility  
1748 regulated under the National Pollutant Discharge Elimination  
1749 System Program under s. 403.0885 for a term of up to 10 years if  
1750 the facility is meeting the stated goals in its action plan



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1751 adopted pursuant to s. 403.086(7).

1752       Section 17. Present subsections (3) and (4) of section  
1753 403.088, Florida Statutes, are redesignated as subsections (4)  
1754 and (5), respectively, a new subsection (3) is added to that  
1755 section, and paragraph (c) of subsection (2) of that section is  
1756 amended, to read:

1757       403.088 Water pollution operation permits; conditions.—

1758       (2)

1759       (c) A permit shall:

1760       1. Specify the manner, nature, volume, and frequency of the  
1761 discharge permitted;

1762       2. Require proper operation and maintenance of any  
1763 pollution abatement facility by qualified personnel in  
1764 accordance with standards established by the department;

1765       3. Require a deliberate, proactive approach to  
1766 investigating or surveying a significant percentage of the  
1767 domestic wastewater collection system throughout the duration of  
1768 the permit to determine pipe integrity, which must be  
1769 accomplished in an economically feasible manner. The permittee  
1770 shall submit an annual report to the department which details  
1771 facility revenues and expenditures in a manner prescribed by  
1772 department rule. The report must detail any deviation of annual  
1773 expenditures from identified system needs related to inflow and  
1774 infiltration studies; model plans for pipe assessment, repair,  
1775 and replacement; and pipe assessment, repair, and replacement  
1776 required under s. 403.086(7). Substantial compliance with this  
1777 subsection is evidence in mitigation for the purposes of  
1778 assessing penalties pursuant to ss. 403.121 and 403.141;

1779       4. Contain such additional conditions, requirements, and



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1780 restrictions as the department deems necessary to preserve and  
1781 protect the quality of the receiving waters;

1782 ~~5.4.~~ Be valid for the period of time specified therein; and

1783 ~~6.5.~~ Constitute the state National Pollutant Discharge  
1784 Elimination System permit when issued pursuant to the authority  
1785 in s. 403.0885.

1786 (3) No later than March 1 of each year, the department  
1787 shall submit a report to the Governor, the President of the  
1788 Senate, and the Speaker of the House of Representatives which  
1789 identifies all domestic wastewater treatment facilities that  
1790 experienced a sanitary sewer overflow in the preceding calendar  
1791 year. The report must identify the utility name, operator,  
1792 permitted capacity in annual average gallons per day, the number  
1793 of overflows, and the total volume of sewage released, and, to  
1794 the extent known and available, the volume of sewage recovered,  
1795 the volume of sewage discharged to surface waters, and the cause  
1796 of the sanitary sewer overflow, including whether it was caused  
1797 by a third party. The department shall include with this report  
1798 the annual report specified under subparagraph (2)(c)3. for each  
1799 utility that experienced an overflow.

1800 Section 18. Subsection (6) of section 403.0891, Florida  
1801 Statutes, is amended to read:

1802 403.0891 State, regional, and local stormwater management  
1803 plans and programs.—The department, the water management  
1804 districts, and local governments shall have the responsibility  
1805 for the development of mutually compatible stormwater management  
1806 programs.

1807 (6) The department and the Department of Economic  
1808 Opportunity, in cooperation with local governments in the



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1809 coastal zone, shall develop a model stormwater management  
1810 program that could be adopted by local governments. The model  
1811 program must contain model ordinances that target nutrient  
1812 reduction practices and use green infrastructure. The model  
1813 program shall contain dedicated funding options, including a  
1814 stormwater utility fee system based upon an equitable unit cost  
1815 approach. Funding options shall be designed to generate capital  
1816 to retrofit existing stormwater management systems, build new  
1817 treatment systems, operate facilities, and maintain and service  
1818 debt.

1819 Section 19. Paragraphs (b) and (g) of subsection (2),  
1820 paragraph (b) of subsection (3), and subsections (8) and (9) of  
1821 section 403.121, Florida Statutes, are amended to read:

1822 403.121 Enforcement; procedure; remedies.—The department  
1823 shall have the following judicial and administrative remedies  
1824 available to it for violations of this chapter, as specified in  
1825 s. 403.161(1).

1826 (2) Administrative remedies:

1827 (b) If the department has reason to believe a violation has  
1828 occurred, it may institute an administrative proceeding to order  
1829 the prevention, abatement, or control of the conditions creating  
1830 the violation or other appropriate corrective action. Except for  
1831 violations involving hazardous wastes, asbestos, or underground  
1832 injection, the department shall proceed administratively in all  
1833 cases in which the department seeks administrative penalties  
1834 that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated  
1835 in accordance with subsections (3), (4), (5), (6), and (7).  
1836 Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty  
1837 assessed pursuant to subsection (3), subsection (4), or



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1838 subsection (5) against a public water system serving a  
1839 population of more than 10,000 shall be not less than \$1,000 per  
1840 day per violation. The department shall not impose  
1841 administrative penalties in excess of \$50,000 ~~\$10,000~~ in a  
1842 notice of violation. The department shall not have more than one  
1843 notice of violation seeking administrative penalties pending  
1844 against the same party at the same time unless the violations  
1845 occurred at a different site or the violations were discovered  
1846 by the department subsequent to the filing of a previous notice  
1847 of violation.

1848 (g) Nothing herein shall be construed as preventing any  
1849 other legal or administrative action in accordance with law.  
1850 Nothing in this subsection shall limit the department's  
1851 authority provided in ss. 403.131, 403.141, and this section to  
1852 judicially pursue injunctive relief. When the department  
1853 exercises its authority to judicially pursue injunctive relief,  
1854 penalties in any amount up to the statutory maximum sought by  
1855 the department must be pursued as part of the state court action  
1856 and not by initiating a separate administrative proceeding. The  
1857 department retains the authority to judicially pursue penalties  
1858 in excess of \$50,000 ~~\$10,000~~ for violations not specifically  
1859 included in the administrative penalty schedule, or for multiple  
1860 or multiday violations alleged to exceed a total of \$50,000  
1861 ~~\$10,000~~. The department also retains the authority provided in  
1862 ss. 403.131, 403.141, and this section to judicially pursue  
1863 injunctive relief and damages, if a notice of violation seeking  
1864 the imposition of administrative penalties has not been issued.  
1865 The department has the authority to enter into a settlement,  
1866 either before or after initiating a notice of violation, and the





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1867 settlement may include a penalty amount different from the  
1868 administrative penalty schedule. Any case filed in state court  
1869 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in  
1870 penalties may be settled in the court action for less than  
1871 \$50,000 ~~\$10,000~~.

1872 (3) Except for violations involving hazardous wastes,  
1873 asbestos, or underground injection, administrative penalties  
1874 must be calculated according to the following schedule:

1875 (b) For failure to obtain a required wastewater permit,  
1876 other than a permit required for surface water discharge, the  
1877 department shall assess a penalty of \$2,000 ~~\$1,000~~. For a  
1878 domestic or industrial wastewater violation not involving a  
1879 surface water or groundwater quality violation, the department  
1880 shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or  
1881 unauthorized discharge or effluent-limitation exceedance or  
1882 failure to comply with s. 403.061(14) or s. 403.086(7) or rules  
1883 adopted thereunder. For an unpermitted or unauthorized discharge  
1884 or effluent-limitation exceedance that resulted in a surface  
1885 water or groundwater quality violation, the department shall  
1886 assess a penalty of \$10,000 ~~\$5,000~~.

1887 (8) The direct economic benefit gained by the violator from  
1888 the violation, where consideration of economic benefit is  
1889 provided by Florida law or required by federal law as part of a  
1890 federally delegated or approved program, shall be added to the  
1891 scheduled administrative penalty. The total administrative  
1892 penalty, including any economic benefit added to the scheduled  
1893 administrative penalty, shall not exceed \$10,000.

1894 (9) The administrative penalties assessed for any  
1895 particular violation shall not exceed \$10,000 ~~\$5,000~~ against any



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1896 one violator, unless the violator has a history of  
1897 noncompliance, the economic benefit of the violation as  
1898 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are  
1899 multiday violations. The total administrative penalties shall  
1900 not exceed \$50,000 ~~\$10,000~~ per assessment for all violations  
1901 attributable to a specific person in the notice of violation.

1902 Section 20. Subsection (7) of section 403.1835, Florida  
1903 Statutes, is amended to read:

1904 403.1835 Water pollution control financial assistance.—

1905 (7) Eligible projects must be given priority according to  
1906 the extent each project is intended to remove, mitigate, or  
1907 prevent adverse effects on surface or ground water quality and  
1908 public health. The relative costs of achieving environmental and  
1909 public health benefits must be taken into consideration during  
1910 the department's assignment of project priorities. The  
1911 department shall adopt a priority system by rule. In developing  
1912 the priority system, the department shall give priority to  
1913 projects that:

1914 (a) Eliminate public health hazards;

1915 (b) Enable compliance with laws requiring the elimination  
1916 of discharges to specific water bodies, including the  
1917 requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic  
1918 wastewater ocean outfalls;

1919 (c) Assist in the implementation of total maximum daily  
1920 loads adopted under s. 403.067;

1921 (d) Enable compliance with other pollution control  
1922 requirements, including, but not limited to, toxics control,  
1923 wastewater residuals management, and reduction of nutrients and  
1924 bacteria;



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1925 (e) Assist in the implementation of surface water  
1926 improvement and management plans and pollutant load reduction  
1927 goals developed under state water policy;

1928 (f) Promote reclaimed water reuse;

1929 (g) Eliminate failing onsite sewage treatment and disposal  
1930 systems or those that are causing environmental damage; or

1931 (h) Reduce pollutants to and otherwise promote the  
1932 restoration of Florida's surface and ground waters.

1933 (i) Implement the requirements of ss. 403.086(7) and  
1934 403.088(2)(c).

1935 (j) Promote efficiency by planning for the installation of  
1936 wastewater transmission facilities to be constructed  
1937 concurrently with other construction projects occurring within  
1938 or along a transportation facility right-of-way.

1939 Section 21. Paragraph (b) of subsection (3) of section  
1940 403.1838, Florida Statutes, is amended to read:

1941 403.1838 Small Community Sewer Construction Assistance  
1942 Act.—

1943 (3)

1944 (b) The rules of the Environmental Regulation Commission  
1945 must:

1946 1. Require that projects to plan, design, construct,  
1947 upgrade, or replace wastewater collection, transmission,  
1948 treatment, disposal, and reuse facilities be cost-effective,  
1949 environmentally sound, permittable, and implementable.

1950 2. Require appropriate user charges, connection fees, and  
1951 other charges sufficient to ensure the long-term operation,  
1952 maintenance, and replacement of the facilities constructed under  
1953 each grant.



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1954           3. Require grant applications to be submitted on  
1955 appropriate forms with appropriate supporting documentation, and  
1956 require records to be maintained.

1957           4. Establish a system to determine eligibility of grant  
1958 applications.

1959           5. Establish a system to determine the relative priority of  
1960 grant applications. The system must consider public health  
1961 protection and water pollution prevention or abatement and must  
1962 prioritize projects that plan for the installation of wastewater  
1963 transmission facilities to be constructed concurrently with  
1964 other construction projects occurring within or along a  
1965 transportation facility right-of-way.

1966           6. Establish requirements for competitive procurement of  
1967 engineering and construction services, materials, and equipment.

1968           7. Provide for termination of grants when program  
1969 requirements are not met.

1970           Section 22. Subsection (12) of section 403.814, Florida  
1971 Statutes, is amended to read:

1972           403.814 General permits; delegation.—

1973           (12) A general permit is granted for the construction,  
1974 alteration, and maintenance of a stormwater management system  
1975 serving a total project area of up to 10 acres meeting the  
1976 criteria of this subsection. Such stormwater management systems  
1977 must be designed, operated, and maintained in accordance with  
1978 applicable rules adopted pursuant to part IV of chapter 373.  
1979 There is a rebuttable presumption that the discharge from such  
1980 systems complies with state water quality standards. The  
1981 construction of such a system may proceed without any further  
1982 agency action by the department or water management district if,



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1983 before construction begins, an electronic self-certification is  
1984 submitted to the department or water management district which  
1985 certifies that the proposed system was designed by a Florida  
1986 registered professional and that the registered professional has  
1987 certified that the proposed system will meet the following  
1988 additional requirements:

1989 (a) The total project area involves less than 10 acres and  
1990 less than 2 acres of impervious surface;

1991 (b) Activities will not impact wetlands or other surface  
1992 waters;

1993 (c) Activities are not conducted in, on, or over wetlands  
1994 or other surface waters;

1995 (d) Drainage facilities will not include pipes having  
1996 diameters greater than 24 inches, or the hydraulic equivalent,  
1997 and will not use pumps in any manner;

1998 (e) The project is not part of a larger common plan,  
1999 development, or sale; and

2000 (f) The project does not:

2001 1. Cause adverse water quantity or flooding impacts to  
2002 receiving water and adjacent lands;

2003 2. Cause adverse impacts to existing surface water storage  
2004 and conveyance capabilities;

2005 3. Cause or contribute to a violation of state water  
2006 quality standards; or

2007 4. Cause an adverse impact to the maintenance of surface or  
2008 ground water levels or surface water flows established pursuant  
2009 to s. 373.042 or a work of the district established pursuant to  
2010 s. 373.086.

2011



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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



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2041 stormwater design and operation by a specified date;  
2042 amending s. 381.0065, F.S.; conforming provisions to  
2043 changes made by the act; requiring the department to  
2044 adopt rules for the location of onsite sewage  
2045 treatment and disposal systems and complete such  
2046 rulemaking by a specified date; requiring the  
2047 department to evaluate certain data relating to the  
2048 self-certification program and provide the Legislature  
2049 with recommendations by a specified date; providing  
2050 that certain provisions relating to existing setback  
2051 requirements are applicable to permits only until the  
2052 adoption of certain rules by the department; creating  
2053 s. 381.00652, F.S.; creating an onsite sewage  
2054 treatment and disposal systems technical advisory  
2055 committee within the department; providing the duties  
2056 and membership of the committee; requiring the  
2057 committee to submit a report to the Governor and the  
2058 Legislature by a specified date; providing for the  
2059 expiration of the committee; repealing s. 381.0068,  
2060 F.S., relating to a technical review and advisory  
2061 panel; amending s. 403.061, F.S.; requiring the  
2062 department to adopt rules relating to the underground  
2063 pipes of wastewater collection systems; requiring  
2064 public utilities or their affiliated companies that  
2065 hold or are seeking a wastewater discharge permit to  
2066 file certain reports and data with the department;  
2067 creating s. 403.0616, F.S.; requiring the department,  
2068 subject to legislative appropriation, to establish a  
2069 real-time water quality monitoring program;



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2070 encouraging the formation of public-private  
2071 partnerships; amending s. 403.067, F.S.; requiring  
2072 basin management action plans for nutrient total  
2073 maximum daily loads to include wastewater treatment  
2074 and onsite sewage treatment and disposal system  
2075 remediation plans that meet certain requirements;  
2076 requiring the Department of Agriculture and Consumer  
2077 Services to collect fertilization and nutrient records  
2078 from certain agricultural producers and provide the  
2079 information to the department annually by a specified  
2080 date; requiring the Department of Agriculture and  
2081 Consumer Services to perform onsite inspections of the  
2082 agricultural producers at specified intervals;  
2083 requiring certain entities to develop research plans  
2084 and legislative budget requests relating to best  
2085 management practices by a specified date; creating s.  
2086 403.0671, F.S.; directing the Department of  
2087 Environmental Protection, in coordination with the  
2088 county health departments, wastewater treatment  
2089 facilities, and other governmental entities, to submit  
2090 a report on the costs of certain wastewater projects  
2091 to the Governor and Legislature by a specified date;  
2092 requiring the department to submit a specified water  
2093 quality monitoring assessment report to the Governor  
2094 and the Legislature by a specified date; requiring the  
2095 department to submit certain wastewater project cost  
2096 estimates to the Office of Economic and Demographic  
2097 Research; creating s. 403.0673, F.S.; establishing a  
2098 wastewater grant program within the Department of





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2099 Environmental Protection; authorizing the department  
2100 to distribute appropriated funds for certain projects;  
2101 providing requirements for the distribution; requiring  
2102 the department to coordinate with each water  
2103 management district to identify grant recipients;  
2104 requiring an annual report to the Governor and the  
2105 Legislature by a specified date; creating s. 403.0855,  
2106 F.S.; providing legislative findings regarding the  
2107 regulation of biosolids management in this state;  
2108 requiring the Department of Environmental Protection  
2109 to adopt rules for biosolids management; specifying  
2110 requirements for certain existing permits and for  
2111 permit renewals; requiring the permittee of a  
2112 biosolids application site to establish a groundwater  
2113 monitoring program under certain circumstances;  
2114 prohibiting the land application of biosolids within a  
2115 specified distance of the seasonal high-water table;  
2116 defining the term "seasonal high water"; authorizing  
2117 municipalities and counties to take certain actions  
2118 with respect to regulation of the land application of  
2119 specified biosolids; amending s. 403.086, F.S.;  
2120 prohibiting facilities for sanitary sewage disposal  
2121 from disposing of any waste in the Indian River Lagoon  
2122 beginning on a specified date without first providing  
2123 advanced waste treatment; requiring the Department of  
2124 Environmental Protection, in consultation with water  
2125 management districts and sewage disposal facilities,  
2126 to submit a report to the Governor and the Legislature  
2127 on the status of certain facility upgrades; specifying



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2128 requirements for the report; requiring facilities for  
2129 sanitary sewage disposal to have a power outage  
2130 contingency plan; requiring the facilities to take  
2131 steps to prevent overflows and leaks and ensure that  
2132 the water reaches the appropriate facility for  
2133 treatment; requiring the facilities to provide the  
2134 Department of Environmental Protection with certain  
2135 information; requiring the department to adopt rules;  
2136 amending s. 403.087, F.S.; requiring the department to  
2137 issue operation permits for domestic wastewater  
2138 treatment facilities to certain facilities under  
2139 certain circumstances; amending s. 403.088, F.S.;  
2140 revising the permit conditions for a water pollution  
2141 operation permit; requiring the department to submit a  
2142 report to the Governor and the Legislature by a  
2143 specified date identifying all wastewater utilities  
2144 that experienced sanitary sewer overflows within a  
2145 specified timeframe; amending s. 403.0891, F.S.;  
2146 requiring model stormwater management programs to  
2147 contain model ordinances for nutrient reduction  
2148 practices and green infrastructure; amending s.  
2149 403.121, F.S.; increasing and providing administrative  
2150 penalties; amending s. 403.1835, F.S.; conforming a  
2151 cross-reference; requiring the department to give  
2152 priority for water pollution control financial  
2153 assistance to projects that implement certain  
2154 provisions and that promote efficiency; amending s.  
2155 403.1838, F.S.; revising requirements for the  
2156 prioritization of grant applications within the Small



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2157 Community Sewer Construction Assistance Act; amending  
2158 s. 403.814, F.S.; revising the additional requirements  
2159 that a proposed stormwater management system must  
2160 meet; providing



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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Agriculture, Environment, and  
General Government)

A bill to be entitled

An act relating to 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



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56 remediation plans that meet certain requirements;  
57 requiring the Department of Agriculture and Consumer  
58 Services to collect fertilization and nutrient records  
59 from certain agricultural producers and provide the  
60 information to the department annually by a specified  
61 date; requiring the Department of Agriculture and  
62 Consumer Services to perform onsite inspections of the  
63 agricultural producers at specified intervals;  
64 authorizing certain entities to develop research plans  
65 and legislative budget requests relating to best  
66 management practices by a specified date; creating s.  
67 403.0673, F.S.; establishing a wastewater grant  
68 program within the Department of Environmental  
69 Protection; authorizing the department to distribute  
70 appropriated funds for certain projects; providing  
71 requirements for the distribution; requiring the  
72 department to coordinate with each water management  
73 district to identify grant recipients; requiring an  
74 annual report to the Governor and the Legislature by a  
75 specified date; creating s. 403.0855, F.S.; providing  
76 legislative findings regarding the regulation of  
77 biosolids management in this state; requiring the  
78 department to adopt rules for biosolids management;  
79 exempting the rules from a specified statutory  
80 requirement; amending s. 403.086, F.S.; prohibiting  
81 facilities for sanitary sewage disposal from disposing  
82 of any waste in the Indian River Lagoon beginning on a  
83 specified date without first providing advanced waste  
84 treatment; requiring facilities for sanitary sewage



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85 disposal to have a power outage contingency plan;  
86 requiring the facilities to take steps to prevent  
87 overflows and leaks and ensure that the water reaches  
88 the appropriate facility for treatment; requiring the  
89 facilities to provide the Department of Environmental  
90 Protection with certain information; requiring the  
91 department to adopt rules; amending s. 403.087, F.S.;  
92 requiring the department to issue operation permits  
93 for domestic wastewater treatment facilities to  
94 certain facilities under certain circumstances;  
95 amending s. 403.088, F.S.; revising the permit  
96 conditions for a water pollution operation permit;  
97 requiring the department to submit a report to the  
98 Governor and the Legislature by a specified date  
99 identifying all wastewater utilities that experienced  
100 sanitary sewer overflows within a specified timeframe;  
101 amending s. 403.0891, F.S.; requiring model stormwater  
102 management programs to contain model ordinances for  
103 nutrient reduction practices and green infrastructure;  
104 amending s. 403.121, F.S.; increasing and providing  
105 administrative penalties; amending s. 403.1835, F.S.;  
106 conforming a cross-reference; requiring the department  
107 to give priority for water pollution control financial  
108 assistance to projects that implement certain  
109 provisions and that promote efficiency; amending s.  
110 403.1838, F.S.; revising requirements for the  
111 prioritization of grant applications within the Small  
112 Community Sewer Construction Assistance Act; providing  
113 a declaration of important state interest; amending



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114 ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46,  
115 373.250, 373.414, 373.705, 373.707, 373.709, 373.807,  
116 376.307, 380.0552, 381.006, 381.0061, 381.0064,  
117 381.00651, 381.0101, 403.08601, 403.0871, 403.0872,  
118 403.707, 403.861, 489.551, and 590.02, F.S.;

119 conforming cross-references and provisions to changes  
120 made by the act; providing a directive to the Division  
121 of Law Revision upon the adoption of certain rules by  
122 the Department of Environmental Protection; providing  
123 effective dates.

124

125 WHEREAS, nutrients negatively impact groundwater and  
126 surface waters in this state and cause the proliferation of  
127 algal blooms, and

128 WHEREAS, onsite sewage treatment and disposal systems were  
129 designed to manage human waste and are permitted by the  
130 Department of Health for that purpose, and

131 WHEREAS, conventional onsite sewage treatment and disposal  
132 systems contribute nutrients to groundwater and surface waters  
133 across this state which can cause harmful blue-green algal  
134 blooms, and

135 WHEREAS, many stormwater systems are designed primarily to  
136 divert and control stormwater rather than to remove pollutants,  
137 and

138 WHEREAS, most existing stormwater system design criteria  
139 fail to consistently meet either the 80 percent or 95 percent  
140 target pollutant reduction goals established by the Department  
141 of Environmental Protection, and

142 WHEREAS, other significant pollutants often can be removed



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143 from stormwater more easily than nutrients and, as a result,  
144 design criteria that provide the desired removal efficiencies  
145 for nutrients will likely achieve equal or better removal  
146 efficiencies for other constituents, and

147 WHEREAS, the Department of Environmental Protection has  
148 found that the major causes of sanitary sewer overflows during  
149 storm events are infiltration, inflow, and acute power failures,  
150 and

151 WHEREAS, the Department of Environmental Protection lacks  
152 statutory authority to regulate infiltration and inflow or to  
153 require that all lift stations constructed prior to 2003 have  
154 emergency backup power, and

155 WHEREAS, sanitary sewer overflows and leaking  
156 infrastructure create both a human health concern and a nutrient  
157 pollution problem, and

158 WHEREAS, the agricultural sector is a significant  
159 contributor to the excess delivery of nutrients to surface  
160 waters throughout this state and has been identified as the  
161 dominant source of both phosphorus and nitrogen within the Lake  
162 Okeechobee watershed and a number of other basin management  
163 action plan areas, and

164 WHEREAS, only 75 percent of eligible agricultural parties  
165 within the Lake Okeechobee Basin Management Action Plan area are  
166 enrolled in an appropriate best management practice and  
167 enrollment numbers are considerably less in other basin  
168 management action plan areas, and

169 WHEREAS, although agricultural best management practices,  
170 by design, should be technically feasible and economically  
171 viable, that does not imply that their adoption and full



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172 implementation, alone, will alleviate downstream water quality  
173 impairments, NOW, THEREFORE,

174  
175 Be It Enacted by the Legislature of the State of Florida:

176  
177 Section 1. This act may be cited as the "Clean Waterways  
178 Act."

179 Section 2. (1) By July 1, 2020, the Department of Health  
180 must provide a report to the Governor, the President of the  
181 Senate, and the Speaker of the House of Representatives  
182 detailing the following information regarding the Onsite Sewage  
183 Program:

184 (a) The average number of permits issued each year;

185 (b) The number of department employees conducting work on  
186 or related to the program each year; and

187 (c) The program's costs and expenditures, including, but  
188 not limited to, salaries and benefits, equipment costs, and  
189 contracting costs.

190 (2) By December 31, 2020, the Department of Health and the  
191 Department of Environmental Protection shall submit  
192 recommendations to the Governor, the President of the Senate,  
193 and the Speaker of the House of Representatives regarding the  
194 transfer of the Onsite Sewage Program from the Department of  
195 Health to the Department of Environmental Protection. The  
196 recommendations must address all aspects of the transfer,  
197 including the continued role of the county health departments in  
198 the permitting, inspection, data management, and tracking of  
199 onsite sewage treatment and disposal systems under the direction  
200 of the Department of Environmental Protection.



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201 (3) By June 30, 2021, the Department of Health and the  
202 Department of Environmental Protection shall enter into an  
203 interagency agreement based on the Department of Health report  
204 required under subsection (2) and on recommendations from a plan  
205 that must address all agency cooperation for a period not less  
206 than 5 years after the transfer, including:

207 (a) The continued role of the county health departments in  
208 the permitting, inspection, data management, and tracking of  
209 onsite sewage treatment and disposal systems under the direction  
210 of the Department of Environmental Protection.

211 (b) The appropriate proportionate number of administrative,  
212 auditing, inspector general, attorney, and operational support  
213 positions, and their related funding levels and sources and  
214 assigned property, to be transferred from the Office of General  
215 Counsel, the Office of Inspector General, and the Division of  
216 Administrative Services or other relevant offices or divisions  
217 within the Department of Health to the Department of  
218 Environmental Protection.

219 (c) The development of a recommended plan to address the  
220 transfer or shared use of buildings, regional offices, and other  
221 facilities used or owned by the Department of Health.

222 (d) Any operating budget adjustments that are necessary to  
223 implement the requirements of this act. Adjustments made to the  
224 operating budgets of the agencies in the implementation of this  
225 act must be made in consultation with the appropriate  
226 substantive and fiscal committees of the Senate and the House of  
227 Representatives. The revisions to the approved operating budgets  
228 for the 2021-2022 fiscal year which are necessary to reflect the  
229 organizational changes made by this act must be implemented



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230 pursuant to s. 216.292(4) (d), Florida Statutes, and are subject  
231 to s. 216.177, Florida Statutes. Subsequent adjustments between  
232 the Department of Health and the Department of Environmental  
233 Protection which are determined necessary by the respective  
234 agencies and approved by the Executive Office of the Governor  
235 are authorized and subject to s. 216.177, Florida Statutes. The  
236 appropriate substantive committees of the Senate and the House  
237 of Representatives must also be notified of the proposed  
238 revisions to ensure their consistency with legislative policy  
239 and intent.

240 (4) Effective July 1, 2021, all powers, duties, functions,  
241 records, offices, personnel, associated administrative support  
242 positions, property, pending issues, existing contracts,  
243 administrative authority, administrative rules, and unexpended  
244 balances of appropriations, allocations, and other funds for the  
245 regulation of onsite sewage treatment and disposal systems  
246 relating to the Onsite Sewage Program in the Department of  
247 Health are transferred by a type two transfer, as defined in s.  
248 20.06(2), Florida Statutes, to the Department of Environmental  
249 Protection.

250 (5) Notwithstanding chapter 60L-34, Florida Administrative  
251 Code, or any law to the contrary, employees who are transferred  
252 from the Department of Health to the Department of Environmental  
253 Protection to fill positions transferred by this act retain and  
254 transfer any accrued annual leave, sick leave, and regular and  
255 special compensatory leave balances.

256 Section 3. Subsection (5) of section 373.4131, Florida  
257 Statutes, is amended, and subsection (6) is added to that  
258 section, to read:



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259 373.4131 Statewide environmental resource permitting  
260 rules.-

261 (5) To ensure consistent implementation and interpretation  
262 of the rules adopted pursuant to this section, the department  
263 shall conduct or oversee regular assessment and training of its  
264 staff and the staffs of the water management districts and local  
265 governments delegated local pollution control program authority  
266 under s. 373.441. The training must include coordinating field  
267 inspections of publicly and privately owned stormwater  
268 structural controls, such as stormwater retention or detention  
269 ponds.

270 (6) By January 1, 2021:

271 (a) The department and the water management districts shall  
272 initiate rulemaking to update the stormwater design and  
273 operation regulations using the most recent scientific  
274 information available; and

275 (b) The department shall evaluate inspection data relating  
276 to compliance by those entities that self-certify under s.  
277 403.814(12) and provide the Legislature with recommendations for  
278 improvements to the self-certification program.

279 Section 4. Effective July 1, 2021, present paragraphs (d)  
280 through (q) of subsection (2) of section 381.0065, Florida  
281 Statutes, are redesignated as paragraphs (e) through (r),  
282 respectively, a new paragraph (d) is added to that subsection,  
283 and subsections (3) and (4) of that section are amended, to  
284 read:

285 381.0065 Onsite sewage treatment and disposal systems;  
286 regulation.-

287 (2) DEFINITIONS.-As used in ss. 381.0065-381.0067, the





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288 term:

289 (d) "Department" means the Department of Environmental  
290 Protection.

291 (3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The  
292 department shall:

293 (a) Adopt rules to administer ss. 381.0065-381.0067,  
294 including definitions that are consistent with the definitions  
295 in this section, ~~decreases to setback requirements where no~~  
296 ~~health hazard exists~~, increases for the lot-flow allowance for  
297 performance-based systems, requirements for separation from  
298 water table elevation during the wettest season, requirements  
299 for the design and construction of any component part of an  
300 onsite sewage treatment and disposal system, application and  
301 permit requirements for persons who maintain an onsite sewage  
302 treatment and disposal system, requirements for maintenance and  
303 service agreements for aerobic treatment units and performance-  
304 based treatment systems, and recommended standards, including  
305 disclosure requirements, for voluntary system inspections to be  
306 performed by individuals who are authorized by law to perform  
307 such inspections and who shall inform a person having ownership,  
308 control, or use of an onsite sewage treatment and disposal  
309 system of the inspection standards and of that person's  
310 authority to request an inspection based on all or part of the  
311 standards.

312 (b) Perform application reviews and site evaluations, issue  
313 permits, and conduct inspections and complaint investigations  
314 associated with the construction, installation, maintenance,  
315 modification, abandonment, operation, use, or repair of an  
316 onsite sewage treatment and disposal system for a residence or



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317 establishment with an estimated domestic sewage flow of 10,000  
318 gallons or less per day, or an estimated commercial sewage flow  
319 of 5,000 gallons or less per day, which is not currently  
320 regulated under chapter 403.

321 (c) Develop a comprehensive program to ensure that onsite  
322 sewage treatment and disposal systems regulated by the  
323 department are sized, designed, constructed, installed, sited,  
324 repaired, modified, abandoned, used, operated, and maintained in  
325 compliance with this section and rules adopted under this  
326 section to prevent groundwater contamination, including impacts  
327 from nutrient pollution, and surface water contamination and to  
328 preserve the public health. The department is the final  
329 administrative interpretive authority regarding rule  
330 interpretation. In the event of a conflict regarding rule  
331 interpretation, the secretary of the department ~~State Surgeon~~  
332 ~~General~~, or his or her designee, shall timely assign a staff  
333 person to resolve the dispute.

334 (d) Grant variances in hardship cases under the conditions  
335 prescribed in this section and rules adopted under this section.

336 (e) Permit the use of a limited number of innovative  
337 systems for a specific period of time, when there is compelling  
338 evidence that the system will function properly and reliably to  
339 meet the requirements of this section and rules adopted under  
340 this section.

341 (f) Issue annual operating permits under this section.

342 (g) Establish and collect fees as established under s.  
343 381.0066 for services provided with respect to onsite sewage  
344 treatment and disposal systems.

345 (h) Conduct enforcement activities, including imposing



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346 fines, issuing citations, suspensions, revocations, injunctions,  
347 and emergency orders for violations of this section, part I of  
348 chapter 386, or part III of chapter 489 or for a violation of  
349 any rule adopted under this section, part I of chapter 386, or  
350 part III of chapter 489.

351 (i) Provide or conduct education and training of department  
352 personnel, service providers, and the public regarding onsite  
353 sewage treatment and disposal systems.

354 (j) Supervise research on, demonstration of, and training  
355 on the performance, environmental impact, and public health  
356 impact of onsite sewage treatment and disposal systems within  
357 this state. Research fees collected under s. 381.0066(2)(k) must  
358 be used to develop and fund hands-on training centers designed  
359 to provide practical information about onsite sewage treatment  
360 and disposal systems to septic tank contractors, master septic  
361 tank contractors, contractors, inspectors, engineers, and the  
362 public and must also be used to fund research projects which  
363 focus on improvements of onsite sewage treatment and disposal  
364 systems, including use of performance-based standards and  
365 reduction of environmental impact. Research projects shall be  
366 initially approved by the technical review and advisory panel  
367 and shall be applicable to and reflect the soil conditions  
368 specific to Florida. Such projects shall be awarded through  
369 competitive negotiation, using the procedures provided in s.  
370 287.055, to public or private entities that have experience in  
371 onsite sewage treatment and disposal systems in Florida and that  
372 are principally located in Florida. Research projects ~~may shall~~  
373 not be awarded to firms or entities that employ or are  
374 associated with persons who serve on either the technical review



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375 and advisory panel or the research review and advisory  
376 committee.

377 (k) Approve the installation of individual graywater  
378 disposal systems in which blackwater is treated by a central  
379 sewerage system.

380 (l) Regulate and permit the sanitation, handling,  
381 treatment, storage, reuse, and disposal of byproducts from any  
382 system regulated under this chapter and not regulated by the  
383 Department of Environmental Protection.

384 (m) Permit and inspect portable or temporary toilet  
385 services and holding tanks. The department shall review  
386 applications, perform site evaluations, and issue permits for  
387 the temporary use of holding tanks, privies, portable toilet  
388 services, or any other toilet facility that is intended for use  
389 on a permanent or nonpermanent basis, including facilities  
390 placed on construction sites when workers are present. The  
391 department may specify standards for the construction,  
392 maintenance, use, and operation of any such facility for  
393 temporary use.

394 (n) Regulate and permit maintenance entities for  
395 performance-based treatment systems and aerobic treatment unit  
396 systems. To ensure systems are maintained and operated according  
397 to manufacturer's specifications and designs, the department  
398 shall establish by rule minimum qualifying criteria for  
399 maintenance entities. The criteria shall include: training,  
400 access to approved spare parts and components, access to  
401 manufacturer's maintenance and operation manuals, and service  
402 response time. The maintenance entity shall employ a contractor  
403 licensed under s. 489.105(3)(m), or part III of chapter 489, or



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404 a state-licensed wastewater plant operator, who is responsible  
405 for maintenance and repair of all systems under contract.  
406 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not  
407 construct, repair, modify, abandon, or operate an onsite sewage  
408 treatment and disposal system without first obtaining a permit  
409 approved by the department. The department may issue permits to  
410 carry out this section, ~~but shall not make the issuance of such~~  
411 ~~permits contingent upon prior approval by the Department of~~  
412 ~~Environmental Protection, except that~~ The issuance of a permit  
413 for work seaward of the coastal construction control line  
414 established under s. 161.053 shall be contingent upon receipt of  
415 any required coastal construction control line permit from the  
416 department ~~of Environmental Protection~~. A construction permit is  
417 valid for 18 months from the issuance date and may be extended  
418 by the department for one 90-day period under rules adopted by  
419 the department. A repair permit is valid for 90 days from the  
420 date of issuance. An operating permit must be obtained before  
421 ~~prior to~~ the use of any aerobic treatment unit or if the  
422 establishment generates commercial waste. Buildings or  
423 establishments that use an aerobic treatment unit or generate  
424 commercial waste shall be inspected by the department at least  
425 annually to assure compliance with the terms of the operating  
426 permit. The operating permit for a commercial wastewater system  
427 is valid for 1 year from the date of issuance and must be  
428 renewed annually. The operating permit for an aerobic treatment  
429 unit is valid for 2 years from the date of issuance and must be  
430 renewed every 2 years. If all information pertaining to the  
431 siting, location, and installation conditions or repair of an  
432 onsite sewage treatment and disposal system remains the same, a



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433 construction or repair permit for the onsite sewage treatment  
434 and disposal system may be transferred to another person, if the  
435 transferee files, within 60 days after the transfer of  
436 ownership, an amended application providing all corrected  
437 information and proof of ownership of the property. There is no  
438 fee associated with the processing of this supplemental  
439 information. A person may not contract to construct, modify,  
440 alter, repair, service, abandon, or maintain any portion of an  
441 onsite sewage treatment and disposal system without being  
442 registered under part III of chapter 489. A property owner who  
443 personally performs construction, maintenance, or repairs to a  
444 system serving his or her own owner-occupied single-family  
445 residence is exempt from registration requirements for  
446 performing such construction, maintenance, or repairs on that  
447 residence, but is subject to all permitting requirements. A  
448 municipality or political subdivision of the state may not issue  
449 a building or plumbing permit for any building that requires the  
450 use of an onsite sewage treatment and disposal system unless the  
451 owner or builder has received a construction permit for such  
452 system from the department. A building or structure may not be  
453 occupied and a municipality, political subdivision, or any state  
454 or federal agency may not authorize occupancy until the  
455 department approves the final installation of the onsite sewage  
456 treatment and disposal system. A municipality or political  
457 subdivision of the state may not approve any change in occupancy  
458 or tenancy of a building that uses an onsite sewage treatment  
459 and disposal system until the department has reviewed the use of  
460 the system with the proposed change, approved the change, and  
461 amended the operating permit.



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462 (a) Subdivisions and lots in which each lot has a minimum  
463 area of at least one-half acre and either a minimum dimension of  
464 100 feet or a mean of at least 100 feet of the side bordering  
465 the street and the distance formed by a line parallel to the  
466 side bordering the street drawn between the two most distant  
467 points of the remainder of the lot may be developed with a water  
468 system regulated under s. 381.0062 and onsite sewage treatment  
469 and disposal systems, provided the projected daily sewage flow  
470 does not exceed an average of 1,500 gallons per acre per day,  
471 and provided satisfactory drinking water can be obtained and all  
472 distance and setback, soil condition, water table elevation, and  
473 other related requirements of this section and rules adopted  
474 under this section can be met.

475 (b) Subdivisions and lots using a public water system as  
476 defined in s. 403.852 may use onsite sewage treatment and  
477 disposal systems, provided there are no more than four lots per  
478 acre, provided the projected daily sewage flow does not exceed  
479 an average of 2,500 gallons per acre per day, and provided that  
480 all distance and setback, soil condition, water table elevation,  
481 and other related requirements that are generally applicable to  
482 the use of onsite sewage treatment and disposal systems are met.

483 (c) Notwithstanding paragraphs (a) and (b), for  
484 subdivisions platted of record on or before October 1, 1991,  
485 when a developer or other appropriate entity has previously made  
486 or makes provisions, including financial assurances or other  
487 commitments, acceptable to the Department of Health, that a  
488 central water system will be installed by a regulated public  
489 utility based on a density formula, private potable wells may be  
490 used with onsite sewage treatment and disposal systems until the



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491 agreed-upon densities are reached. In a subdivision regulated by  
492 this paragraph, the average daily sewage flow may not exceed  
493 2,500 gallons per acre per day. This section does not affect the  
494 validity of existing prior agreements. After October 1, 1991,  
495 the exception provided under this paragraph is not available to  
496 a developer or other appropriate entity.

497 (d) Paragraphs (a) and (b) do not apply to any proposed  
498 residential subdivision with more than 50 lots or to any  
499 proposed commercial subdivision with more than 5 lots where a  
500 publicly owned or investor-owned sewerage system is available.  
501 It is the intent of this paragraph not to allow development of  
502 additional proposed subdivisions in order to evade the  
503 requirements of this paragraph.

504 (e) The department shall adopt rules to locate onsite  
505 sewage treatment and disposal systems, including establishing  
506 setback distances, to prevent groundwater contamination and  
507 surface water contamination and to preserve the public health.  
508 The rulemaking process for such rules must be completed by July  
509 1, 2022, and the department shall notify the Division of Law  
510 Revision of the date such rules are adopted. The rules must  
511 consider conventional and enhanced nutrient-reducing onsite  
512 sewage treatment and disposal system designs, impaired or  
513 degraded water bodies, domestic wastewater and drinking water  
514 infrastructure, potable water sources, nonpotable wells,  
515 stormwater infrastructure, the onsite sewage treatment and  
516 disposal system remediation plans developed pursuant to s.  
517 403.067(7)(a)9.b., nutrient pollution, and the recommendations  
518 of the onsite sewage treatment and disposal systems technical  
519 advisory committee established pursuant to s. 381.00652.



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520 ~~(f)(e)~~ Onsite sewage treatment and disposal systems that  
521 are permitted before adoption of the rules identified in  
522 paragraph (e) may ~~must~~ not be placed closer than:  
523 1. Seventy-five feet from a private potable well.  
524 2. Two hundred feet from a public potable well serving a  
525 residential or nonresidential establishment having a total  
526 sewage flow of greater than 2,000 gallons per day.  
527 3. One hundred feet from a public potable well serving a  
528 residential or nonresidential establishment having a total  
529 sewage flow of less than or equal to 2,000 gallons per day.  
530 4. Fifty feet from any nonpotable well.  
531 5. Ten feet from any storm sewer pipe, to the maximum  
532 extent possible, but in no instance shall the setback be less  
533 than 5 feet.  
534 6. Seventy-five feet from the mean high-water line of a  
535 tidally influenced surface water body.  
536 7. Seventy-five feet from the mean annual flood line of a  
537 permanent nontidal surface water body.  
538 8. Fifteen feet from the design high-water line of  
539 retention areas, detention areas, or swales designed to contain  
540 standing or flowing water for less than 72 hours after a  
541 rainfall or the design high-water level of normally dry drainage  
542 ditches or normally dry individual lot stormwater retention  
543 areas.  
544 ~~(f) Except as provided under paragraphs (e) and (t), no~~  
545 ~~limitations shall be imposed by rule, relating to the distance~~  
546 ~~between an onsite disposal system and any area that either~~  
547 ~~permanently or temporarily has visible surface water.~~  
548 (g) All provisions of this section and rules adopted under



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549 this section relating to soil condition, water table elevation,  
550 distance, and other setback requirements must be equally applied  
551 to all lots, with the following exceptions:  
552 1. Any residential lot that was platted and recorded on or  
553 after January 1, 1972, or that is part of a residential  
554 subdivision that was approved by the appropriate permitting  
555 agency on or after January 1, 1972, and that was eligible for an  
556 onsite sewage treatment and disposal system construction permit  
557 on the date of such platting and recording or approval shall be  
558 eligible for an onsite sewage treatment and disposal system  
559 construction permit, regardless of when the application for a  
560 permit is made. If rules in effect at the time the permit  
561 application is filed cannot be met, residential lots platted and  
562 recorded or approved on or after January 1, 1972, shall, to the  
563 maximum extent possible, comply with the rules in effect at the  
564 time the permit application is filed. At a minimum, however,  
565 those residential lots platted and recorded or approved on or  
566 after January 1, 1972, but before January 1, 1983, shall comply  
567 with those rules in effect on January 1, 1983, and those  
568 residential lots platted and recorded or approved on or after  
569 January 1, 1983, shall comply with those rules in effect at the  
570 time of such platting and recording or approval. In determining  
571 the maximum extent of compliance with current rules that is  
572 possible, the department shall allow structures and  
573 appurtenances thereto which were authorized at the time such  
574 lots were platted and recorded or approved.  
575 2. Lots platted before 1972 are subject to a 50-foot  
576 minimum surface water setback and are not subject to lot size  
577 requirements. The projected daily flow for onsite sewage



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578 treatment and disposal systems for lots platted before 1972 may  
579 not exceed:

580 a. Two thousand five hundred gallons per acre per day for  
581 lots served by public water systems as defined in s. 403.852.

582 b. One thousand five hundred gallons per acre per day for  
583 lots served by water systems regulated under s. 381.0062.

584 (h)1. The department may grant variances in hardship cases  
585 which may be less restrictive than ~~the provisions~~ specified in  
586 this section. If a variance is granted and the onsite sewage  
587 treatment and disposal system construction permit has been  
588 issued, the variance may be transferred with the system  
589 construction permit, if the transferee files, within 60 days  
590 after the transfer of ownership, an amended construction permit  
591 application providing all corrected information and proof of  
592 ownership of the property and if the same variance would have  
593 been required for the new owner of the property as was  
594 originally granted to the original applicant for the variance.  
595 There is no fee associated with the processing of this  
596 supplemental information. A variance may not be granted under  
597 this section until the department is satisfied that:

598 a. The hardship was not caused intentionally by the action  
599 of the applicant;

600 b. No reasonable alternative, taking into consideration  
601 factors such as cost, exists for the treatment of the sewage;  
602 and

603 c. The discharge from the onsite sewage treatment and  
604 disposal system will not adversely affect the health of the  
605 applicant or the public or significantly degrade the groundwater  
606 or surface waters.



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607  
608 Where soil conditions, water table elevation, and setback  
609 provisions are determined by the department to be satisfactory,  
610 special consideration must be given to those lots platted before  
611 1972.

612 2. The department shall appoint and staff a variance review  
613 and advisory committee, which shall meet monthly to recommend  
614 agency action on variance requests. The committee shall make its  
615 recommendations on variance requests at the meeting in which the  
616 application is scheduled for consideration, except for an  
617 extraordinary change in circumstances, the receipt of new  
618 information that raises new issues, or when the applicant  
619 requests an extension. The committee shall consider the criteria  
620 in subparagraph 1. in its recommended agency action on variance  
621 requests and shall also strive to allow property owners the full  
622 use of their land where possible. The committee consists of the  
623 following:

624 a. ~~The Secretary of Environmental Protection State Surgeon~~  
625 ~~General~~ or his or her designee.

626 b. A representative from the county health departments.

627 c. A representative from the home building industry  
628 recommended by the Florida Home Builders Association.

629 d. A representative from the septic tank industry  
630 recommended by the Florida Onsite Wastewater Association.

631 e. A representative from the Department of Health  
632 Environmental Protection.

633 f. A representative from the real estate industry who is  
634 also a developer in this state who develops lots using onsite  
635 sewage treatment and disposal systems, recommended by the



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636 Florida Association of Realtors.

637 g. A representative from the engineering profession  
638 recommended by the Florida Engineering Society.  
639

640 Members shall be appointed for a term of 3 years, with such  
641 appointments being staggered so that the terms of no more than  
642 two members expire in any one year. Members shall serve without  
643 remuneration, but if requested, shall be reimbursed for per diem  
644 and travel expenses as provided in s. 112.061.

645 (i) A construction permit may not be issued for an onsite  
646 sewage treatment and disposal system in any area zoned or used  
647 for industrial or manufacturing purposes, or its equivalent,  
648 where a publicly owned or investor-owned sewage treatment system  
649 is available, or where a likelihood exists that the system will  
650 receive toxic, hazardous, or industrial waste. An existing  
651 onsite sewage treatment and disposal system may be repaired if a  
652 publicly owned or investor-owned sewerage system is not  
653 available within 500 feet of the building sewer stub-out and if  
654 system construction and operation standards can be met. This  
655 paragraph does not require publicly owned or investor-owned  
656 sewerage treatment systems to accept anything other than  
657 domestic wastewater.

658 1. A building located in an area zoned or used for  
659 industrial or manufacturing purposes, or its equivalent, when  
660 such building is served by an onsite sewage treatment and  
661 disposal system, must not be occupied until the owner or tenant  
662 has obtained written approval from the department. The  
663 department ~~may shall~~ not grant approval when the proposed use of  
664 the system is to dispose of toxic, hazardous, or industrial



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665 wastewater or toxic or hazardous chemicals.

666 2. Each person who owns or operates a business or facility  
667 in an area zoned or used for industrial or manufacturing  
668 purposes, or its equivalent, or who owns or operates a business  
669 that has the potential to generate toxic, hazardous, or  
670 industrial wastewater or toxic or hazardous chemicals, and uses  
671 an onsite sewage treatment and disposal system that is installed  
672 on or after July 5, 1989, must obtain an annual system operating  
673 permit from the department. A person who owns or operates a  
674 business that uses an onsite sewage treatment and disposal  
675 system that was installed and approved before July 5, 1989, need  
676 not obtain a system operating permit. However, upon change of  
677 ownership or tenancy, the new owner or operator must notify the  
678 department of the change, and the new owner or operator must  
679 obtain an annual system operating permit, regardless of the date  
680 that the system was installed or approved.

681 3. The department shall periodically review and evaluate  
682 the continued use of onsite sewage treatment and disposal  
683 systems in areas zoned or used for industrial or manufacturing  
684 purposes, or its equivalent, and may require the collection and  
685 analyses of samples from within and around such systems. If the  
686 department finds that toxic or hazardous chemicals or toxic,  
687 hazardous, or industrial wastewater have been or are being  
688 disposed of through an onsite sewage treatment and disposal  
689 system, the department shall initiate enforcement actions  
690 against the owner or tenant to ensure adequate cleanup,  
691 treatment, and disposal.

692 (j) An onsite sewage treatment and disposal system designed  
693 by a professional engineer registered in the state and certified



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694 by such engineer as complying with performance criteria adopted  
695 by the department must be approved by the department subject to  
696 the following:

697 1. The performance criteria applicable to engineer-designed  
698 systems must be limited to those necessary to ensure that such  
699 systems do not adversely affect the public health or  
700 significantly degrade the groundwater or surface water. Such  
701 performance criteria shall include consideration of the quality  
702 of system effluent, the proposed total sewage flow per acre,  
703 wastewater treatment capabilities of the natural or replaced  
704 soil, water quality classification of the potential surface-  
705 water-receiving body, and the structural and maintenance  
706 viability of the system for the treatment of domestic  
707 wastewater. However, performance criteria shall address only the  
708 performance of a system and not a system's design.

709 2. A person electing to utilize an engineer-designed system  
710 shall, upon completion of the system design, submit such design,  
711 certified by a registered professional engineer, to the county  
712 health department. The county health department may utilize an  
713 outside consultant to review the engineer-designed system, with  
714 the actual cost of such review to be borne by the applicant.  
715 Within 5 working days after receiving an engineer-designed  
716 system permit application, the county health department shall  
717 request additional information if the application is not  
718 complete. Within 15 working days after receiving a complete  
719 application for an engineer-designed system, the county health  
720 department either shall issue the permit or, if it determines  
721 that the system does not comply with the performance criteria,  
722 shall notify the applicant of that determination and refer the



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723 application to the department for a determination as to whether  
724 the system should be approved, disapproved, or approved with  
725 modification. The department engineer's determination shall  
726 prevail over the action of the county health department. The  
727 applicant shall be notified in writing of the department's  
728 determination and of the applicant's rights to pursue a variance  
729 or seek review under ~~the provisions of~~ chapter 120.

730 3. The owner of an engineer-designed performance-based  
731 system must maintain a current maintenance service agreement  
732 with a maintenance entity permitted by the department. The  
733 maintenance entity shall inspect each system at least twice each  
734 year and shall report quarterly to the department on the number  
735 of systems inspected and serviced. The reports may be submitted  
736 electronically.

737 4. The property owner of an owner-occupied, single-family  
738 residence may be approved and permitted by the department as a  
739 maintenance entity for his or her own performance-based  
740 treatment system upon written certification from the system  
741 manufacturer's approved representative that the property owner  
742 has received training on the proper installation and service of  
743 the system. The maintenance service agreement must conspicuously  
744 disclose that the property owner has the right to maintain his  
745 or her own system and is exempt from contractor registration  
746 requirements for performing construction, maintenance, or  
747 repairs on the system but is subject to all permitting  
748 requirements.

749 5. The property owner shall obtain a biennial system  
750 operating permit from the department for each system. The  
751 department shall inspect the system at least annually, or on





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752 such periodic basis as the fee collected permits, and may  
753 collect system-effluent samples if appropriate to determine  
754 compliance with the performance criteria. The fee for the  
755 biennial operating permit shall be collected beginning with the  
756 second year of system operation.

757 6. If an engineer-designed system fails to properly  
758 function or fails to meet performance standards, the system  
759 shall be re-engineered, if necessary, to bring the system into  
760 compliance with ~~the provisions of~~ this section.

761 (k) An innovative system may be approved in conjunction  
762 with an engineer-designed site-specific system which is  
763 certified by the engineer to meet the performance-based criteria  
764 adopted by the department.

765 (l) For the Florida Keys, the department shall adopt a  
766 special rule for the construction, installation, modification,  
767 operation, repair, maintenance, and performance of onsite sewage  
768 treatment and disposal systems which considers the unique soil  
769 conditions and water table elevations, densities, and setback  
770 requirements. On lots where a setback distance of 75 feet from  
771 surface waters, saltmarsh, and buttonwood association habitat  
772 areas cannot be met, an injection well, approved and permitted  
773 by the department, may be used for disposal of effluent from  
774 onsite sewage treatment and disposal systems. The following  
775 additional requirements apply to onsite sewage treatment and  
776 disposal systems in Monroe County:

777 1. The county, each municipality, and those special  
778 districts established for the purpose of the collection,  
779 transmission, treatment, or disposal of sewage shall ensure, in  
780 accordance with the specific schedules adopted by the



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781 Administration Commission under s. 380.0552, the completion of  
782 onsite sewage treatment and disposal system upgrades to meet the  
783 requirements of this paragraph.

784 2. Onsite sewage treatment and disposal systems must cease  
785 discharge by December 31, 2015, or must comply with department  
786 rules and provide the level of treatment which, on a permitted  
787 annual average basis, produces an effluent that contains no more  
788 than the following concentrations:

789 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

790 b. Suspended Solids of 10 mg/l.

791 c. Total Nitrogen, expressed as N, of 10 mg/l or a  
792 reduction in nitrogen of at least 70 percent. A system that has  
793 been tested and certified to reduce nitrogen concentrations by  
794 at least 70 percent shall be deemed to be in compliance with  
795 this standard.

796 d. Total Phosphorus, expressed as P, of 1 mg/l.

797  
798 In addition, onsite sewage treatment and disposal systems  
799 discharging to an injection well must provide basic disinfection  
800 as defined by department rule.

801 3. In areas not scheduled to be served by a central sewer,  
802 onsite sewage treatment and disposal systems must, by December  
803 31, 2015, comply with department rules and provide the level of  
804 treatment described in subparagraph 2.

805 4. In areas scheduled to be served by central sewer by  
806 December 31, 2015, if the property owner has paid a connection  
807 fee or assessment for connection to the central sewer system,  
808 the property owner may install a holding tank with a high water  
809 alarm or an onsite sewage treatment and disposal system that



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810 meets the following minimum standards:

- 811 a. The existing tanks must be pumped and inspected and  
812 certified as being watertight and free of defects in accordance  
813 with department rule; and  
814 b. A sand-lined drainfield or injection well in accordance  
815 with department rule must be installed.  
816 5. Onsite sewage treatment and disposal systems must be  
817 monitored for total nitrogen and total phosphorus concentrations  
818 as required by department rule.  
819 6. The department shall enforce proper installation,  
820 operation, and maintenance of onsite sewage treatment and  
821 disposal systems pursuant to this chapter, including ensuring  
822 that the appropriate level of treatment described in  
823 subparagraph 2. is met.  
824 7. The authority of a local government, including a special  
825 district, to mandate connection of an onsite sewage treatment  
826 and disposal system is governed by s. 4, chapter 99-395, Laws of  
827 Florida.  
828 8. Notwithstanding any other ~~provision of~~ law, an onsite  
829 sewage treatment and disposal system installed after July 1,  
830 2010, in unincorporated Monroe County, excluding special  
831 wastewater districts, that complies with the standards in  
832 subparagraph 2. is not required to connect to a central sewer  
833 system until December 31, 2020.  
834 (m) No product sold in the state for use in onsite sewage  
835 treatment and disposal systems may contain any substance in  
836 concentrations or amounts that would interfere with or prevent  
837 the successful operation of such system, or that would cause  
838 discharges from such systems to violate applicable water quality



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- 839 standards. The department shall publish criteria for products  
840 known or expected to meet the conditions of this paragraph. In  
841 the event a product does not meet such criteria, such product  
842 may be sold if the manufacturer satisfactorily demonstrates to  
843 the department that the conditions of this paragraph are met.  
844 (n) Evaluations for determining the seasonal high-water  
845 table elevations or the suitability of soils for the use of a  
846 new onsite sewage treatment and disposal system shall be  
847 performed by department personnel, professional engineers  
848 registered in the state, or such other persons with expertise,  
849 as defined by rule, in making such evaluations. Evaluations for  
850 determining mean annual flood lines shall be performed by those  
851 persons identified in paragraph (2)(k) ~~(2)(j)~~. The department  
852 shall accept evaluations submitted by professional engineers and  
853 such other persons as meet the expertise established by this  
854 section or by rule unless the department has a reasonable  
855 scientific basis for questioning the accuracy or completeness of  
856 the evaluation.  
857 (o) The department shall appoint a research review and  
858 advisory committee, which shall meet at least semiannually. The  
859 committee shall advise the department on directions for new  
860 research, review and rank proposals for research contracts, and  
861 review draft research reports and make comments. The committee  
862 is comprised of:  
863 1. A representative of the Secretary of Environmental  
864 Protection ~~State Surgeon General~~, or his or her designee.  
865 2. A representative from the septic tank industry.  
866 3. A representative from the home building industry.  
867 4. A representative from an environmental interest group.



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868 5. A representative from the State University System, from  
869 a department knowledgeable about onsite sewage treatment and  
870 disposal systems.

871 6. A professional engineer registered in this state who has  
872 work experience in onsite sewage treatment and disposal systems.

873 7. A representative from local government who is  
874 knowledgeable about domestic wastewater treatment.

875 8. A representative from the real estate profession.

876 9. A representative from the restaurant industry.

877 10. A consumer.

878

879 Members shall be appointed for a term of 3 years, with the  
880 appointments being staggered so that the terms of no more than  
881 four members expire in any one year. Members shall serve without  
882 remuneration, but are entitled to reimbursement for per diem and  
883 travel expenses as provided in s. 112.061.

884 (p) An application for an onsite sewage treatment and  
885 disposal system permit shall be completed in full, signed by the  
886 owner or the owner's authorized representative, or by a  
887 contractor licensed under chapter 489, and shall be accompanied  
888 by all required exhibits and fees. No specific documentation of  
889 property ownership shall be required as a prerequisite to the  
890 review of an application or the issuance of a permit. The  
891 issuance of a permit does not constitute determination by the  
892 department of property ownership.

893 (q) The department may not require any form of subdivision  
894 analysis of property by an owner, developer, or subdivider prior  
895 to submission of an application for an onsite sewage treatment  
896 and disposal system.



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897 (r) Nothing in this section limits the power of a  
898 municipality or county to enforce other laws for the protection  
899 of the public health and safety.

900 (s) In the siting of onsite sewage treatment and disposal  
901 systems, including drainfields, shoulders, and slopes, guttering  
902 ~~may shall~~ not be required on single-family residential dwelling  
903 units for systems located greater than 5 feet from the roof drip  
904 line of the house. If guttering is used on residential dwelling  
905 units, the downspouts shall be directed away from the  
906 drainfield.

907 (t) Notwithstanding ~~the provisions of~~ subparagraph (g)1.,  
908 onsite sewage treatment and disposal systems located in  
909 floodways of the Suwannee and Aucilla Rivers must adhere to the  
910 following requirements:

911 1. The absorption surface of the drainfield ~~may shall~~ not  
912 be subject to flooding based on 10-year flood elevations.  
913 Provided, however, for lots or parcels created by the  
914 subdivision of land in accordance with applicable local  
915 government regulations prior to January 17, 1990, if an  
916 applicant cannot construct a drainfield system with the  
917 absorption surface of the drainfield at an elevation equal to or  
918 above 10-year flood elevation, the department shall issue a  
919 permit for an onsite sewage treatment and disposal system within  
920 the 10-year floodplain of rivers, streams, and other bodies of  
921 flowing water if all of the following criteria are met:

922 a. The lot is at least one-half acre in size;

923 b. The bottom of the drainfield is at least 36 inches above  
924 the 2-year flood elevation; and

925 c. The applicant installs either: a waterless,



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926 incinerating, or organic waste composting toilet and a graywater  
927 system and drainfield in accordance with department rules; an  
928 aerobic treatment unit and drainfield in accordance with  
929 department rules; a system ~~approved by the State Health Office~~  
930 that is capable of reducing effluent nitrate by at least 50  
931 percent in accordance with department rules; or a system other  
932 than a system using alternative drainfield materials in  
933 accordance with department rules ~~approved by the county health~~  
934 ~~department pursuant to department rule other than a system using~~  
935 ~~alternative drainfield materials~~. The United States Department  
936 of Agriculture Soil Conservation Service soil maps, State of  
937 Florida Water Management District data, and Federal Emergency  
938 Management Agency Flood Insurance maps are resources that shall  
939 be used to identify flood-prone areas.

940 2. The use of fill or mounding to elevate a drainfield  
941 system out of the 10-year floodplain of rivers, streams, or  
942 other bodies of flowing water ~~may shall~~ not be permitted if such  
943 a system lies within a regulatory floodway of the Suwannee and  
944 Aucilla Rivers. In cases where the 10-year flood elevation does  
945 not coincide with the boundaries of the regulatory floodway, the  
946 regulatory floodway will be considered for the purposes of this  
947 subsection to extend at a minimum to the 10-year flood  
948 elevation.

949 (u)1. The owner of an aerobic treatment unit system shall  
950 maintain a current maintenance service agreement with an aerobic  
951 treatment unit maintenance entity permitted by the department.  
952 The maintenance entity shall inspect each aerobic treatment unit  
953 system at least twice each year and shall report quarterly to  
954 the department on the number of aerobic treatment unit systems



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955 inspected and serviced. The reports may be submitted  
956 electronically.

957 2. The property owner of an owner-occupied, single-family  
958 residence may be approved and permitted by the department as a  
959 maintenance entity for his or her own aerobic treatment unit  
960 system upon written certification from the system manufacturer's  
961 approved representative that the property owner has received  
962 training on the proper installation and service of the system.  
963 The maintenance entity service agreement must conspicuously  
964 disclose that the property owner has the right to maintain his  
965 or her own system and is exempt from contractor registration  
966 requirements for performing construction, maintenance, or  
967 repairs on the system but is subject to all permitting  
968 requirements.

969 3. A septic tank contractor licensed under part III of  
970 chapter 489, if approved by the manufacturer, may not be denied  
971 access by the manufacturer to aerobic treatment unit system  
972 training or spare parts for maintenance entities. After the  
973 original warranty period, component parts for an aerobic  
974 treatment unit system may be replaced with parts that meet  
975 manufacturer's specifications but are manufactured by others.  
976 The maintenance entity shall maintain documentation of the  
977 substitute part's equivalency for 2 years and shall provide such  
978 documentation to the department upon request.

979 4. The owner of an aerobic treatment unit system shall  
980 obtain a system operating permit from the department and allow  
981 the department to inspect during reasonable hours each aerobic  
982 treatment unit system at least annually, and such inspection may  
983 include collection and analysis of system-effluent samples for



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984 performance criteria established by rule of the department.

985 (v) The department may require the submission of detailed  
986 system construction plans that are prepared by a professional  
987 engineer registered in this state. The department shall  
988 establish by rule criteria for determining when such a  
989 submission is required.

990 (w) Any permit issued and approved by the department for  
991 the installation, modification, or repair of an onsite sewage  
992 treatment and disposal system shall transfer with the title to  
993 the property in a real estate transaction. A title may not be  
994 encumbered at the time of transfer by new permit requirements by  
995 a governmental entity for an onsite sewage treatment and  
996 disposal system which differ from the permitting requirements in  
997 effect at the time the system was permitted, modified, or  
998 repaired. An inspection of a system may not be mandated by a  
999 governmental entity at the point of sale in a real estate  
1000 transaction. This paragraph does not affect a septic tank phase-  
1001 out deferral program implemented by a consolidated government as  
1002 defined in s. 9, Art. VIII of the State Constitution (1885).

1003 (x) A governmental entity, including a municipality,  
1004 county, or statutorily created commission, may not require an  
1005 engineer-designed performance-based treatment system, excluding  
1006 a passive engineer-designed performance-based treatment system,  
1007 before the completion of the Florida Onsite Sewage Nitrogen  
1008 Reduction Strategies Project. This paragraph does not apply to a  
1009 governmental entity, including a municipality, county, or  
1010 statutorily created commission, which adopted a local law,  
1011 ordinance, or regulation on or before January 31, 2012.  
1012 Notwithstanding this paragraph, an engineer-designed



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1013 performance-based treatment system may be used to meet the  
1014 requirements of the variance review and advisory committee  
1015 recommendations.

1016 (y)1. An onsite sewage treatment and disposal system is not  
1017 considered abandoned if the system is disconnected from a  
1018 structure that was made unusable or destroyed following a  
1019 disaster and if the system was properly functioning at the time  
1020 of disconnection and was not adversely affected by the disaster.  
1021 The onsite sewage treatment and disposal system may be  
1022 reconnected to a rebuilt structure if:

1023 a. The reconnection of the system is to the same type of  
1024 structure which contains the same number of bedrooms or fewer,  
1025 if the square footage of the structure is less than or equal to  
1026 110 percent of the original square footage of the structure that  
1027 existed before the disaster;

1028 b. The system is not a sanitary nuisance; and

1029 c. The system has not been altered without prior  
1030 authorization.

1031 2. An onsite sewage treatment and disposal system that  
1032 serves a property that is foreclosed upon is not considered  
1033 abandoned.

1034 (z) If an onsite sewage treatment and disposal system  
1035 permittee receives, relies upon, and undertakes construction of  
1036 a system based upon a validly issued construction permit under  
1037 rules applicable at the time of construction but a change to a  
1038 rule occurs within 5 years after the approval of the system for  
1039 construction but before the final approval of the system, the  
1040 rules applicable and in effect at the time of construction  
1041 approval apply at the time of final approval if fundamental site



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1042 conditions have not changed between the time of construction  
1043 approval and final approval.

1044 (aa) An existing-system inspection or evaluation and  
1045 assessment, or a modification, replacement, or upgrade of an  
1046 onsite sewage treatment and disposal system is not required for  
1047 a remodeling addition or modification to a single-family home if  
1048 a bedroom is not added. However, a remodeling addition or  
1049 modification to a single-family home may not cover any part of  
1050 the existing system or encroach upon a required setback or the  
1051 unobstructed area. To determine if a setback or the unobstructed  
1052 area is impacted, the local health department shall review and  
1053 verify a floor plan and site plan of the proposed remodeling  
1054 addition or modification to the home submitted by a remodeler  
1055 which shows the location of the system, including the distance  
1056 of the remodeling addition or modification to the home from the  
1057 onsite sewage treatment and disposal system. The local health  
1058 department may visit the site or otherwise determine the best  
1059 means of verifying the information submitted. A verification of  
1060 the location of a system is not an inspection or evaluation and  
1061 assessment of the system. The review and verification must be  
1062 completed within 7 business days after receipt by the local  
1063 health department of a floor plan and site plan. If the review  
1064 and verification is not completed within such time, the  
1065 remodeling addition or modification to the single-family home,  
1066 for the purposes of this paragraph, is approved.

1067 Section 5. Section 381.00652, Florida Statutes, is created  
1068 to read:

1069 381.00652 Onsite sewage treatment and disposal systems  
1070 technical advisory committee.-



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1071 (1) An onsite sewage treatment and disposal systems  
1072 technical advisory committee, a committee as defined in s.  
1073 20.03(8), is created within the department. The committee shall:

1074 (a) Provide recommendations to increase the availability in  
1075 the marketplace of enhanced nutrient-reducing onsite sewage  
1076 treatment and disposal systems, including systems that are cost-  
1077 effective, low-maintenance, and reliable.

1078 (b) Consider and recommend regulatory options, such as  
1079 fast-track approval, prequalification, or expedited permitting,  
1080 to facilitate the introduction and use of enhanced nutrient-  
1081 reducing onsite sewage treatment and disposal systems that have  
1082 been reviewed and approved by a national agency or organization,  
1083 such as the American National Standards Institute 245 systems  
1084 approved by the NSF International.

1085 (c) Provide recommendations for appropriate setback  
1086 distances for onsite sewage treatment and disposal systems from  
1087 surface water, groundwater, and wells.

1088 (2) The department shall use existing and available  
1089 resources to administer and support the activities of the  
1090 committee.

1091 (3) (a) By August 1, 2021, the department, in consultation  
1092 with the Department of Health, shall appoint no more than nine  
1093 members to the committee, including, but not limited to, the  
1094 following:

1095 1. A professional engineer.

1096 2. A septic tank contractor.

1097 3. A representative from the home building industry.

1098 4. A representative from the real estate industry.

1099 5. A representative from the onsite sewage treatment and



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1100 disposal system industry.  
1101 6. A representative from local government.  
1102 7. Two representatives from the environmental community.  
1103 8. A representative of the scientific and technical  
1104 community who has substantial expertise in the areas of the fate  
1105 and transport of water pollutants, toxicology, epidemiology,  
1106 geology, biology, or environmental sciences.  
1107 (b) Members shall serve without compensation and are not  
1108 entitled to reimbursement for per diem or travel expenses.  
1109 (4) By January 1, 2022, the committee shall submit its  
1110 recommendations to the Governor, the President of the Senate,  
1111 and the Speaker of the House of Representatives.  
1112 (5) This section expires August 15, 2022.  
1113 (6) For purposes of this section, the term "department"  
1114 means the Department of Environmental Protection.  
1115 Section 6. Effective July 1, 2021, section 381.0068,  
1116 Florida Statutes, is repealed.  
1117 Section 7. Present subsections (14) through (44) of section  
1118 403.061, Florida Statutes, are redesignated as subsections (15)  
1119 through (45), respectively, a new subsection (14) is added to  
1120 that section, and subsection (7) of that section is amended, to  
1121 read:  
1122 403.061 Department; powers and duties.—The department shall  
1123 have the power and the duty to control and prohibit pollution of  
1124 air and water in accordance with the law and rules adopted and  
1125 promulgated by it and, for this purpose, to:  
1126 (7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
1127 implement ~~the provisions of~~ this act. Any rule adopted pursuant  
1128 to this act ~~must shall~~ be consistent with the provisions of



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1129 federal law, if any, relating to control of emissions from motor  
1130 vehicles, effluent limitations, pretreatment requirements, or  
1131 standards of performance. ~~A No~~ county, municipality, or  
1132 political subdivision ~~may not shall~~ adopt or enforce any local  
1133 ordinance, special law, or local regulation requiring the  
1134 installation of Stage II vapor recovery systems, as currently  
1135 defined by department rule, unless such county, municipality, or  
1136 political subdivision is or has been in the past designated by  
1137 federal regulation as a moderate, serious, or severe ozone  
1138 nonattainment area. Rules adopted pursuant to this act ~~may shall~~  
1139 not require dischargers of waste into waters of the state to  
1140 improve natural background conditions. The department shall  
1141 adopt rules to reasonably limit, reduce, and eliminate domestic  
1142 wastewater collection and transmission system pipe leakages and  
1143 inflow and infiltration. Discharges from steam electric  
1144 generating plants existing or licensed under this chapter on  
1145 July 1, 1984, ~~may shall~~ not be required to be treated to a  
1146 greater extent than may be necessary to assure that the quality  
1147 of nonthermal components of discharges from nonrecirculated  
1148 cooling water systems is as high as the quality of the makeup  
1149 waters; that the quality of nonthermal components of discharges  
1150 from recirculated cooling water systems is no lower than is  
1151 allowed for blowdown from such systems; or that the quality of  
1152 noncooling system discharges which receive makeup water from a  
1153 receiving body of water which does not meet applicable  
1154 department water quality standards is as high as the quality of  
1155 the receiving body of water. The department may not adopt  
1156 standards more stringent than federal regulations, except as  
1157 provided in s. 403.804.



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1158 (14) In order to promote resilient utilities, require  
1159 public utilities or their affiliated companies holding, applying  
1160 for, or renewing a domestic wastewater discharge permit to file  
1161 annual reports and other data regarding transactions or  
1162 allocations of common costs and expenditures on pollution  
1163 mitigation and prevention among the utility's permitted systems,  
1164 including, but not limited to, the prevention of sanitary sewer  
1165 overflows, collection and transmission system pipe leakages, and  
1166 inflow and infiltration. The department shall adopt rules to  
1167 implement this subsection.

1168  
1169 The department shall implement such programs in conjunction with  
1170 its other powers and duties and shall place special emphasis on  
1171 reducing and eliminating contamination that presents a threat to  
1172 humans, animals or plants, or to the environment.

1173 Section 8. Section 403.0616, Florida Statutes, is created  
1174 to read:

1175 403.0616 Real-time water quality monitoring program.-

1176 (1) Subject to appropriation, the department shall  
1177 establish a real-time water quality monitoring program to assist  
1178 in the restoration, preservation, and enhancement of impaired  
1179 waterbodies and coastal resources.

1180 (2) In order to expedite the creation and implementation of  
1181 the program, the department is encouraged to form public-private  
1182 partnerships with established scientific entities that have  
1183 proven existing real-time water quality monitoring equipment and  
1184 experience in deploying the equipment.

1185 Section 9. Subsection (7) of section 403.067, Florida  
1186 Statutes, is amended to read:



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1187 403.067 Establishment and implementation of total maximum  
1188 daily loads.-

1189 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND  
1190 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.-

1191 (a) *Basin management action plans.-*

1192 1. In developing and implementing the total maximum daily  
1193 load for a water body, the department, or the department in  
1194 conjunction with a water management district, may develop a  
1195 basin management action plan that addresses some or all of the  
1196 watersheds and basins tributary to the water body. Such plan  
1197 must integrate the appropriate management strategies available  
1198 to the state through existing water quality protection programs  
1199 to achieve the total maximum daily loads and may provide for  
1200 phased implementation of these management strategies to promote  
1201 timely, cost-effective actions as provided for in s. 403.151.  
1202 The plan must establish a schedule implementing the management  
1203 strategies, establish a basis for evaluating the plan's  
1204 effectiveness, and identify feasible funding strategies for  
1205 implementing the plan's management strategies. The management  
1206 strategies may include regional treatment systems or other  
1207 public works, where appropriate, and voluntary trading of water  
1208 quality credits to achieve the needed pollutant load reductions.

1209 2. A basin management action plan must equitably allocate,  
1210 pursuant to paragraph (6)(b), pollutant reductions to individual  
1211 basins, as a whole to all basins, or to each identified point  
1212 source or category of nonpoint sources, as appropriate. For  
1213 nonpoint sources for which best management practices have been  
1214 adopted, the initial requirement specified by the plan must be  
1215 those practices developed pursuant to paragraph (c). ~~When where~~





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1216 appropriate, the plan may take into account the benefits of  
1217 pollutant load reduction achieved by point or nonpoint sources  
1218 that have implemented management strategies to reduce pollutant  
1219 loads, including best management practices, before the  
1220 development of the basin management action plan. The plan must  
1221 also identify the mechanisms that will address potential future  
1222 increases in pollutant loading.

1223 3. The basin management action planning process is intended  
1224 to involve the broadest possible range of interested parties,  
1225 with the objective of encouraging the greatest amount of  
1226 cooperation and consensus possible. In developing a basin  
1227 management action plan, the department shall assure that key  
1228 stakeholders, including, but not limited to, applicable local  
1229 governments, water management districts, the Department of  
1230 Agriculture and Consumer Services, other appropriate state  
1231 agencies, local soil and water conservation districts,  
1232 environmental groups, regulated interests, and affected  
1233 pollution sources, are invited to participate in the process.  
1234 The department shall hold at least one public meeting in the  
1235 vicinity of the watershed or basin to discuss and receive  
1236 comments during the planning process and shall otherwise  
1237 encourage public participation to the greatest practicable  
1238 extent. Notice of the public meeting must be published in a  
1239 newspaper of general circulation in each county in which the  
1240 watershed or basin lies at least not less than 5 days, but not  
1241 ~~not~~ more than 15 days, before the public meeting. A basin  
1242 management action plan does not supplant or otherwise alter any  
1243 assessment made under subsection (3) or subsection (4) or any  
1244 calculation or initial allocation.



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1245 4. Each new or revised basin management action plan shall  
1246 include:  
1247 a. The appropriate management strategies available through  
1248 existing water quality protection programs to achieve total  
1249 maximum daily loads, which may provide for phased implementation  
1250 to promote timely, cost-effective actions as provided for in s.  
1251 403.151;  
1252 b. A description of best management practices adopted by  
1253 rule;  
1254 c. A list of projects in priority ranking with a planning-  
1255 level cost estimate and estimated date of completion for each  
1256 listed project;  
1257 d. The source and amount of financial assistance to be made  
1258 available by the department, a water management district, or  
1259 other entity for each listed project, if applicable; and  
1260 e. A planning-level estimate of each listed project's  
1261 expected load reduction, if applicable.  
1262 5. The department shall adopt all or any part of a basin  
1263 management action plan and any amendment to such plan by  
1264 secretarial order pursuant to chapter 120 to implement ~~the~~  
1265 ~~provisions of~~ this section.  
1266 6. The basin management action plan must include milestones  
1267 for implementation and water quality improvement, and an  
1268 associated water quality monitoring component sufficient to  
1269 evaluate whether reasonable progress in pollutant load  
1270 reductions is being achieved over time. An assessment of  
1271 progress toward these milestones shall be conducted every 5  
1272 years, and revisions to the plan shall be made as appropriate.  
1273 Revisions to the basin management action plan shall be made by



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1274 the department in cooperation with basin stakeholders. Revisions  
1275 to the management strategies required for nonpoint sources must  
1276 follow the procedures set forth in subparagraph (c)4. Revised  
1277 basin management action plans must be adopted pursuant to  
1278 subparagraph 5.

1279 7. In accordance with procedures adopted by rule under  
1280 paragraph (9)(c), basin management action plans, and other  
1281 pollution control programs under local, state, or federal  
1282 authority as provided in subsection (4), may allow point or  
1283 nonpoint sources that will achieve greater pollutant reductions  
1284 than required by an adopted total maximum daily load or  
1285 wasteload allocation to generate, register, and trade water  
1286 quality credits for the excess reductions to enable other  
1287 sources to achieve their allocation; however, the generation of  
1288 water quality credits does not remove the obligation of a source  
1289 or activity to meet applicable technology requirements or  
1290 adopted best management practices. Such plans must allow trading  
1291 between NPDES permittees, and trading that may or may not  
1292 involve NPDES permittees, where the generation or use of the  
1293 credits involve an entity or activity not subject to department  
1294 water discharge permits whose owner voluntarily elects to obtain  
1295 department authorization for the generation and sale of credits.

1296 8. ~~The provisions of~~ The department's rule relating to the  
1297 equitable abatement of pollutants into surface waters do not  
1298 apply to water bodies or water body segments for which a basin  
1299 management plan that takes into account future new or expanded  
1300 activities or discharges has been adopted under this section.

1301 9. In order to promote resilient utilities, if the  
1302 department identifies domestic wastewater facilities or onsite



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1303 sewage treatment and disposal systems as contributors of at  
1304 least 20 percent of point source or nonpoint source nutrient  
1305 pollution or if the department determines remediation is  
1306 necessary to achieve the total maximum daily load, a basin  
1307 management action plan for a nutrient total maximum daily load  
1308 must include the following:

1309 a. A wastewater treatment plan that addresses domestic  
1310 wastewater developed by each local government in cooperation  
1311 with the department, the water management district, and the  
1312 public and private domestic wastewater facilities within the  
1313 jurisdiction of the local government. The wastewater treatment  
1314 plan must:

1315 (I) Provide for construction, expansion, or upgrades  
1316 necessary to achieve the total maximum daily load requirements  
1317 applicable to the domestic wastewater facility.

1318 (II) Include the permitted capacity in average annual  
1319 gallons per day for the domestic wastewater facility; the  
1320 average nutrient concentration and the estimated average  
1321 nutrient load of the domestic wastewater; a timeline of the  
1322 dates by which the construction of any facility improvements  
1323 will begin and be completed and the date by which operations of  
1324 the improved facility will begin; the estimated cost of the  
1325 improvements; and the identity of responsible parties.

1326  
1327 The wastewater treatment plan must be adopted as part of the  
1328 basin management action plan no later than July 1, 2025. A local  
1329 government that does not have a domestic wastewater treatment  
1330 facility in its jurisdiction is not required to develop a  
1331 wastewater treatment plan unless there is a demonstrated need to



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1332 establish a domestic wastewater treatment facility within its  
1333 jurisdiction to improve water quality necessary to achieve a  
1334 total maximum daily load. A local government is not responsible  
1335 for a private domestic wastewater facility's compliance with a  
1336 basin management action plan.

1337 b. An onsite sewage treatment and disposal system  
1338 remediation plan developed by each local government in  
1339 cooperation with the department, the Department of Health, water  
1340 management districts, and public and private domestic wastewater  
1341 facilities.

1342 (I) The onsite sewage treatment and disposal system  
1343 remediation plan must identify cost-effective and financially  
1344 feasible projects necessary to achieve the nutrient load  
1345 reductions required for onsite sewage treatment and disposal  
1346 systems. To identify cost-effective and financially feasible  
1347 projects for remediation of onsite sewage treatment and disposal  
1348 systems, the local government shall:

1349 (A) Include an inventory of onsite sewage treatment and  
1350 disposal systems based on the best information available;

1351 (B) Identify onsite sewage treatment and disposal systems  
1352 that would be eliminated through connection to existing or  
1353 future central domestic wastewater infrastructure in the  
1354 jurisdiction or domestic wastewater service area of the local  
1355 government, that would be replaced with or upgraded to enhanced  
1356 nutrient-reducing systems, or that would remain on conventional  
1357 onsite sewage treatment and disposal systems;

1358 (C) Estimate the costs of potential onsite sewage treatment  
1359 and disposal systems connections, upgrades, or replacements; and

1360 (D) Identify deadlines and interim milestones for the



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1361 planning, design, and construction of projects.

1362 (II) The department shall adopt the onsite sewage treatment  
1363 and disposal system remediation plan as part of the basin  
1364 management action plan no later than July 1, 2025, or as  
1365 required for Outstanding Florida Springs under s. 373.807.

1366 10. When identifying wastewater projects in a basin  
1367 management action plan, the department may not require the  
1368 higher cost option if it achieves the same nutrient load  
1369 reduction as a lower cost option.

1370 (b) Total maximum daily load implementation.—

1371 1. The department shall be the lead agency in coordinating  
1372 the implementation of the total maximum daily loads through  
1373 existing water quality protection programs. Application of a  
1374 total maximum daily load by a water management district must be  
1375 consistent with this section and does not require the issuance  
1376 of an order or a separate action pursuant to s. 120.536(1) or s.  
1377 120.54 for the adoption of the calculation and allocation  
1378 previously established by the department. Such programs may  
1379 include, but are not limited to:

1380 a. Permitting and other existing regulatory programs,  
1381 including water-quality-based effluent limitations;

1382 b. Nonregulatory and incentive-based programs, including  
1383 best management practices, cost sharing, waste minimization,  
1384 pollution prevention, agreements established pursuant to s.  
1385 403.061(22) ~~s. 403.061(21)~~, and public education;

1386 c. Other water quality management and restoration  
1387 activities, for example surface water improvement and management  
1388 plans approved by water management districts or basin management  
1389 action plans developed pursuant to this subsection;



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1390 d. Trading of water quality credits or other equitable  
1391 economically based agreements;  
1392 e. Public works including capital facilities; or  
1393 f. Land acquisition.  
1394 2. For a basin management action plan adopted pursuant to  
1395 paragraph (a), any management strategies and pollutant reduction  
1396 requirements associated with a pollutant of concern for which a  
1397 total maximum daily load has been developed, including effluent  
1398 limits set forth for a discharger subject to NPDES permitting,  
1399 if any, must be included in a timely manner in subsequent NPDES  
1400 permits or permit modifications for that discharger. The  
1401 department may not impose limits or conditions implementing an  
1402 adopted total maximum daily load in an NPDES permit until the  
1403 permit expires, the discharge is modified, or the permit is  
1404 reopened pursuant to an adopted basin management action plan.  
1405 a. Absent a detailed allocation, total maximum daily loads  
1406 must be implemented through NPDES permit conditions that provide  
1407 for a compliance schedule. In such instances, a facility's NPDES  
1408 permit must allow time for the issuance of an order adopting the  
1409 basin management action plan. The time allowed for the issuance  
1410 of an order adopting the plan may not exceed 5 years. Upon  
1411 issuance of an order adopting the plan, the permit must be  
1412 reopened or renewed, as necessary, and permit conditions  
1413 consistent with the plan must be established. Notwithstanding  
1414 the other provisions of this subparagraph, upon request by an  
1415 NPDES permittee, the department as part of a permit issuance,  
1416 renewal, or modification may establish individual allocations  
1417 before the adoption of a basin management action plan.  
1418 b. For holders of NPDES municipal separate storm sewer



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1419 system permits and other stormwater sources, implementation of a  
1420 total maximum daily load or basin management action plan must be  
1421 achieved, to the maximum extent practicable, through the use of  
1422 best management practices or other management measures.  
1423 c. The basin management action plan does not relieve the  
1424 discharger from any requirement to obtain, renew, or modify an  
1425 NPDES permit or to abide by other requirements of the permit.  
1426 d. Management strategies set forth in a basin management  
1427 action plan to be implemented by a discharger subject to  
1428 permitting by the department must be completed pursuant to the  
1429 schedule set forth in the basin management action plan. This  
1430 implementation schedule may extend beyond the 5-year term of an  
1431 NPDES permit.  
1432 e. Management strategies and pollution reduction  
1433 requirements set forth in a basin management action plan for a  
1434 specific pollutant of concern are not subject to challenge under  
1435 chapter 120 at the time they are incorporated, in an identical  
1436 form, into a subsequent NPDES permit or permit modification.  
1437 f. For nonagricultural pollutant sources not subject to  
1438 NPDES permitting but permitted pursuant to other state,  
1439 regional, or local water quality programs, the pollutant  
1440 reduction actions adopted in a basin management action plan must  
1441 be implemented to the maximum extent practicable as part of  
1442 those permitting programs.  
1443 g. A nonpoint source discharger included in a basin  
1444 management action plan must demonstrate compliance with the  
1445 pollutant reductions established under subsection (6) by  
1446 implementing the appropriate best management practices  
1447 established pursuant to paragraph (c) or conducting water



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1448 quality monitoring prescribed by the department or a water  
1449 management district. A nonpoint source discharger may, in  
1450 accordance with department rules, supplement the implementation  
1451 of best management practices with water quality credit trades in  
1452 order to demonstrate compliance with the pollutant reductions  
1453 established under subsection (6).

1454 h. A nonpoint source discharger included in a basin  
1455 management action plan may be subject to enforcement action by  
1456 the department or a water management district based upon a  
1457 failure to implement the responsibilities set forth in sub-  
1458 subparagraph g.

1459 i. A landowner, discharger, or other responsible person who  
1460 is implementing applicable management strategies specified in an  
1461 adopted basin management action plan may not be required by  
1462 permit, enforcement action, or otherwise to implement additional  
1463 management strategies, including water quality credit trading,  
1464 to reduce pollutant loads to attain the pollutant reductions  
1465 established pursuant to subsection (6) and shall be deemed to be  
1466 in compliance with this section. This subparagraph does not  
1467 limit the authority of the department to amend a basin  
1468 management action plan as specified in subparagraph (a)6.

1469 (c) *Best management practices.*—

1470 1. The department, in cooperation with the water management  
1471 districts and other interested parties, as appropriate, may  
1472 develop suitable interim measures, best management practices, or  
1473 other measures necessary to achieve the level of pollution  
1474 reduction established by the department for nonagricultural  
1475 nonpoint pollutant sources in allocations developed pursuant to  
1476 subsection (6) and this subsection. These practices and measures



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1477 may be adopted by rule by the department and the water  
1478 management districts and, where adopted by rule, shall be  
1479 implemented by those parties responsible for nonagricultural  
1480 nonpoint source pollution.

1481 2. The Department of Agriculture and Consumer Services may  
1482 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
1483 suitable interim measures, best management practices, or other  
1484 measures necessary to achieve the level of pollution reduction  
1485 established by the department for agricultural pollutant sources  
1486 in allocations developed pursuant to subsection (6) and this  
1487 subsection or for programs implemented pursuant to paragraph  
1488 (12)(b). These practices and measures may be implemented by  
1489 those parties responsible for agricultural pollutant sources and  
1490 the department, the water management districts, and the  
1491 Department of Agriculture and Consumer Services shall assist  
1492 with implementation. In the process of developing and adopting  
1493 rules for interim measures, best management practices, or other  
1494 measures, the Department of Agriculture and Consumer Services  
1495 shall consult with the department, the Department of Health, the  
1496 water management districts, representatives from affected  
1497 farming groups, and environmental group representatives. Such  
1498 rules must also incorporate provisions for a notice of intent to  
1499 implement the practices and a system to assure the  
1500 implementation of the practices, including site inspection and  
1501 recordkeeping requirements.

1502 3. Where interim measures, best management practices, or  
1503 other measures are adopted by rule, the effectiveness of such  
1504 practices in achieving the levels of pollution reduction  
1505 established in allocations developed by the department pursuant



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1506 to subsection (6) and this subsection or in programs implemented  
1507 pursuant to paragraph (12)(b) must be verified at representative  
1508 sites by the department. The department shall use best  
1509 professional judgment in making the initial verification that  
1510 the best management practices are reasonably expected to be  
1511 effective and, where applicable, must notify the appropriate  
1512 water management district or the Department of Agriculture and  
1513 Consumer Services of its initial verification before the  
1514 adoption of a rule proposed pursuant to this paragraph.  
1515 Implementation, in accordance with rules adopted under this  
1516 paragraph, of practices that have been initially verified to be  
1517 effective, or verified to be effective by monitoring at  
1518 representative sites, by the department, shall provide a  
1519 presumption of compliance with state water quality standards and  
1520 release from ~~the provisions of~~ s. 376.307(5) for those  
1521 pollutants addressed by the practices, and the department is not  
1522 authorized to institute proceedings against the owner of the  
1523 source of pollution to recover costs or damages associated with  
1524 the contamination of surface water or groundwater caused by  
1525 those pollutants. Research projects funded by the department, a  
1526 water management district, or the Department of Agriculture and  
1527 Consumer Services to develop or demonstrate interim measures or  
1528 best management practices shall be granted a presumption of  
1529 compliance with state water quality standards and a release from  
1530 ~~the provisions of~~ s. 376.307(5). The presumption of compliance  
1531 and release is limited to the research site and only for those  
1532 pollutants addressed by the interim measures or best management  
1533 practices. Eligibility for the presumption of compliance and  
1534 release is limited to research projects on sites where the owner



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1535 or operator of the research site and the department, a water  
1536 management district, or the Department of Agriculture and  
1537 Consumer Services have entered into a contract or other  
1538 agreement that, at a minimum, specifies the research objectives,  
1539 the cost-share responsibilities of the parties, and a schedule  
1540 that details the beginning and ending dates of the project.  
1541 4. Where water quality problems are demonstrated, despite  
1542 the appropriate implementation, operation, and maintenance of  
1543 best management practices and other measures required by rules  
1544 adopted under this paragraph, the department, a water management  
1545 district, or the Department of Agriculture and Consumer  
1546 Services, in consultation with the department, shall institute a  
1547 reevaluation of the best management practice or other measure.  
1548 Should the reevaluation determine that the best management  
1549 practice or other measure requires modification, the department,  
1550 a water management district, or the Department of Agriculture  
1551 and Consumer Services, as appropriate, shall revise the rule to  
1552 require implementation of the modified practice within a  
1553 reasonable time period as specified in the rule.  
1554 5. Subject to subparagraph 6., the Department of  
1555 Agriculture and Consumer Services shall provide to the  
1556 department information that it obtains pursuant to subparagraph  
1557 (d)3.  
1558 6. Agricultural records relating to processes or methods of  
1559 production, costs of production, profits, or other financial  
1560 information held by the Department of Agriculture and Consumer  
1561 Services pursuant to subparagraphs 3., ~~and~~ 4., and 5. or  
1562 pursuant to any rule adopted pursuant to subparagraph 2. are  
1563 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I



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1564 of the State Constitution. Upon request, records made  
1565 confidential and exempt pursuant to this subparagraph shall be  
1566 released to the department or any water management district  
1567 provided that the confidentiality specified by this subparagraph  
1568 for such records is maintained.

1569 ~~7.6. The provisions of~~ Subparagraphs 1. and 2. do not  
1570 preclude the department or water management district from  
1571 requiring compliance with water quality standards or with  
1572 current best management practice requirements set forth in any  
1573 applicable regulatory program authorized by law for the purpose  
1574 of protecting water quality. Additionally, subparagraphs 1. and  
1575 2. are applicable only to the extent that they do not conflict  
1576 with any rules adopted by the department that are necessary to  
1577 maintain a federally delegated or approved program.

1578 (d) *Enforcement and verification of basin management action*  
1579 *plans and management strategies.*—

1580 1. Basin management action plans are enforceable pursuant  
1581 to this section and ss. 403.121, 403.141, and 403.161.

1582 Management strategies, including best management practices and  
1583 water quality monitoring, are enforceable under this chapter.

1584 2. No later than January 1, 2017:

1585 a. The department, in consultation with the water  
1586 management districts and the Department of Agriculture and  
1587 Consumer Services, shall initiate rulemaking to adopt procedures  
1588 to verify implementation of water quality monitoring required in  
1589 lieu of implementation of best management practices or other  
1590 measures pursuant to sub-subparagraph (b)2.g.;

1591 b. The department, in consultation with the water  
1592 management districts and the Department of Agriculture and



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1593 Consumer Services, shall initiate rulemaking to adopt procedures  
1594 to verify implementation of nonagricultural interim measures,  
1595 best management practices, or other measures adopted by rule  
1596 pursuant to subparagraph (c)1.; and

1597 c. The Department of Agriculture and Consumer Services, in  
1598 consultation with the water management districts and the  
1599 department, shall initiate rulemaking to adopt procedures to  
1600 verify implementation of agricultural interim measures, best  
1601 management practices, or other measures adopted by rule pursuant  
1602 to subparagraph(c)2.

1603  
1604 The rules required under this subparagraph shall include  
1605 enforcement procedures applicable to the landowner, discharger,  
1606 or other responsible person required to implement applicable  
1607 management strategies, including best management practices or  
1608 water quality monitoring as a result of noncompliance.

1609 3. At least every 2 years, the Department of Agriculture  
1610 and Consumer Services shall perform onsite inspections of each  
1611 agricultural producer that enrolls in a best management practice  
1612 to ensure that such practice is being properly implemented. Such  
1613 verification must include a review of the best management  
1614 practice documentation required by rule adopted in accordance  
1615 with subparagraph (c)2., including, but not limited to, nitrogen  
1616 and phosphorous fertilizer application records, which must be  
1617 collected and retained pursuant to subparagraphs (c)3., 4., and  
1618 6.

1619 (e) *Data collection and research.*—

1620 1. The Department of Agriculture and Consumer Services, the  
1621 University of Florida Institute of Food and Agricultural



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1622 Sciences, and other state universities and Florida College  
1623 System institutions with agricultural research programs may  
1624 annually develop research plans and legislative budget requests  
1625 to:  
1626 a. Evaluate and suggest enhancements to the existing  
1627 adopted agricultural best management practices to reduce  
1628 nutrients;  
1629 b. Develop new best management practices that, if proven  
1630 effective, the Department of Agriculture and Consumer Services  
1631 may adopt by rule pursuant to paragraph (c); and  
1632 c. Develop agricultural nutrient reduction projects that  
1633 willing participants could implement on a site-specific,  
1634 cooperative basis, in addition to best management practices. The  
1635 department may consider these projects for inclusion in a basin  
1636 management action plan. These nutrient reduction projects must  
1637 reduce the nutrient impacts from agricultural operations on  
1638 water quality when evaluated with the projects and management  
1639 strategies currently included in the basin management action  
1640 plan.  
1641 2. To be considered for funding, the University of Florida  
1642 Institute of Food and Agricultural Sciences and other state  
1643 universities and Florida College System institutions that have  
1644 agricultural research programs must submit such plans to the  
1645 department and the Department of Agriculture and Consumer  
1646 Services by August 1 of each year.  
1647 Section 10. Section 403.0673, Florida Statutes, is created  
1648 to read:  
1649 403.0673 Wastewater grant program.—A wastewater grant  
1650 program is established within the Department of Environmental



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1651 Protection.  
1652 (1) Subject to the appropriation of funds by the  
1653 Legislature, the department may provide grants for the following  
1654 projects within a basin management action plan, an alternative  
1655 restoration plan adopted by final order, or a rural area of  
1656 opportunity under s. 288.0656 which will individually or  
1657 collectively reduce excess nutrient pollution:  
1658 (a) Projects to retrofit onsite sewage treatment and  
1659 disposal systems to upgrade them to enhanced nutrient-reducing  
1660 onsite sewage treatment and disposal systems.  
1661 (b) Projects to construct, upgrade, or expand facilities to  
1662 provide advanced waste treatment, as defined in s. 403.086(4).  
1663 (c) Projects to connect onsite sewage treatment and  
1664 disposal systems to central sewer facilities.  
1665 (2) In allocating such funds, priority must be given to  
1666 projects that subsidize the connection of onsite sewage  
1667 treatment and disposal systems to wastewater treatment plants.  
1668 First priority must be given to subsidize connection to existing  
1669 infrastructure. Second priority must be given to any expansion  
1670 of a collection or transmission system that promotes efficiency  
1671 by planning the installation of wastewater transmission  
1672 facilities to be constructed concurrently with other  
1673 construction projects occurring within or along a transportation  
1674 facility right-of-way. Third priority must be given to all other  
1675 connection of onsite sewage treatment and disposal systems to a  
1676 wastewater treatment plants. The department shall consider the  
1677 estimated reduction in nutrient load per project; project  
1678 readiness; cost-effectiveness of the project; overall  
1679 environmental benefit of a project; the location of a project;





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1680 the availability of local matching funds; and projected water  
1681 savings or quantity improvements associated with a project.  
1682 (3) Each grant for a project described in subsection (1)  
1683 must require a minimum of a 50 percent local match of funds.  
1684 However, the department may, at its discretion, waive, in whole  
1685 or in part, this consideration of the local contribution for  
1686 proposed projects within an area designated as a rural area of  
1687 opportunity under s. 288.0656.  
1688 (4) The department shall coordinate with each water  
1689 management district, as necessary, to identify grant recipients  
1690 in each district.  
1691 (5) Beginning January 1, 2021, and each January 1  
1692 thereafter, the department shall submit a report regarding the  
1693 projects funded pursuant to this section to the Governor, the  
1694 President of the Senate, and the Speaker of the House of  
1695 Representatives.  
1696 Section 11. Section 403.0855, Florida Statutes, is created  
1697 to read:  
1698 403.0855 Biosolids management.—The Legislature finds that  
1699 it is in the best interest of this state to regulate biosolids  
1700 management in order to minimize the migration of nutrients that  
1701 impair waterbodies. The Legislature further finds that the  
1702 expedited implementation of the recommendations of the Biosolids  
1703 Technical Advisory Committee, including permitting according to  
1704 site-specific application conditions, an increased inspection  
1705 rate, groundwater and surface water monitoring protocols, and  
1706 nutrient management research, will improve biosolids management  
1707 and assist in protecting this state's water resources and water  
1708 quality. The department shall adopt rules for biosolids



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1709 management. Rules adopted by the department pursuant to this  
1710 section before the 2021 regular legislative session are not  
1711 subject to s. 120.541(3). A municipality or county may enforce  
1712 or extend an ordinance, a regulation, a resolution, a rule, a  
1713 moratorium, or a policy, any of which was adopted before  
1714 November 1, 2019, relating to the land application of Class B  
1715 biosolids until the ordinance, regulation, resolution, rule,  
1716 moratorium, or policy is repealed by the municipality or county.  
1717 Section 12. Present subsections (7) through (10) of section  
1718 403.086, Florida Statutes, are redesignated as subsections (8)  
1719 through (11), respectively, a new subsection (7) is added to  
1720 that section, and paragraph (c) of subsection (1) and subsection  
1721 (2) of that section are amended, to read:  
1722 403.086 Sewage disposal facilities; advanced and secondary  
1723 waste treatment.—  
1724 (1)  
1725 (c) Notwithstanding any other provisions of this chapter or  
1726 chapter 373, facilities for sanitary sewage disposal may not  
1727 dispose of any wastes into Old Tampa Bay, Tampa Bay,  
1728 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater  
1729 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,  
1730 or Charlotte Harbor Bay, Indian River Lagoon beginning July 1,  
1731 2025, or into any river, stream, channel, canal, bay, bayou,  
1732 sound, or other water tributary thereto, without providing  
1733 advanced waste treatment, as defined in subsection (4), approved  
1734 by the department. This paragraph shall not apply to facilities  
1735 which were permitted by February 1, 1987, and which discharge  
1736 secondary treated effluent, followed by water hyacinth  
1737 treatment, to tributaries of tributaries of the named waters; or



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1738 to facilities permitted to discharge to the nontidally  
1739 influenced portions of the Peace River.

1740 (2) Any facilities for sanitary sewage disposal shall  
1741 provide for secondary waste treatment, a power outage  
1742 contingency plan that mitigates the impacts of power outages on  
1743 the utility's collection system and pump stations, and, in  
1744 addition thereto, advanced waste treatment as deemed necessary  
1745 and ordered by the Department of Environmental Protection.  
1746 Failure to conform is shall be punishable by a civil penalty of  
1747 \$500 for each 24-hour day or fraction thereof that such failure  
1748 is allowed to continue thereafter.

1749 (7) All facilities for sanitary sewage under subsection (2)  
1750 which control a collection or transmission system of pipes and  
1751 pumps to collect and transmit wastewater from domestic or  
1752 industrial sources to the facility shall take steps to prevent  
1753 sanitary sewer overflows or underground pipe leaks and ensure  
1754 that collected wastewater reaches the facility for appropriate  
1755 treatment. Facilities must use inflow and infiltration studies  
1756 and leakage surveys to develop pipe assessment, repair, and  
1757 replacement action plans that comply with department rule to  
1758 limit, reduce, and eliminate leaks, seepages, or inputs into  
1759 wastewater treatment systems' underground pipes. The pipe  
1760 assessment, repair, and replacement action plans must be  
1761 reported to the department. The facility action plan must  
1762 include information regarding the annual expenditures dedicated  
1763 to the inflow and infiltration studies and the required  
1764 replacement action plans, as well as expenditures that are  
1765 dedicated to pipe assessment, repair, and replacement. The  
1766 department shall adopt rules regarding the implementation of



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1767 inflow and infiltration studies and leakage surveys; however,  
1768 such department rules may not fix or revise utility rates or  
1769 budgets. Any entity subject to this subsection and s.  
1770 403.061(14) may submit one report to comply with both  
1771 provisions. Substantial compliance with this subsection is  
1772 evidence in mitigation for the purposes of assessing penalties  
1773 pursuant to ss. 403.121 and 403.141.

1774 Section 13. Present subsections (4) through (10) of section  
1775 403.087, Florida Statutes, are redesignated as subsections (5)  
1776 through (11), respectively, and a new subsection (4) is added to  
1777 that section, to read:

1778 403.087 Permits; general issuance; denial; revocation;  
1779 prohibition; penalty.-

1780 (4) The department shall issue an operation permit for a  
1781 domestic wastewater treatment facility other than a facility  
1782 regulated under the National Pollutant Discharge Elimination  
1783 System Program under s. 403.0885 for a term of up to 10 years if  
1784 the facility is meeting the stated goals in its action plan  
1785 adopted pursuant to s. 403.086(7).

1786 Section 14. Present subsections (3) and (4) of section  
1787 403.088, Florida Statutes, are redesignated as subsections (4)  
1788 and (5), respectively, a new subsection (3) is added to that  
1789 section, and paragraph (c) of subsection (2) of that section is  
1790 amended, to read:

1791 403.088 Water pollution operation permits; conditions.-

1792 (2)

1793 (c) A permit shall:

1794 1. Specify the manner, nature, volume, and frequency of the  
1795 discharge permitted;



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1796 2. Require proper operation and maintenance of any  
1797 pollution abatement facility by qualified personnel in  
1798 accordance with standards established by the department;

1799 3. Require a deliberate, proactive approach to  
1800 investigating or surveying a significant percentage of the  
1801 domestic wastewater collection system throughout the duration of  
1802 the permit to determine pipe integrity, which must be  
1803 accomplished in an economically feasible manner. The permittee  
1804 shall submit an annual report to the department which details  
1805 facility revenues and expenditures in a manner prescribed by  
1806 department rule. The report must detail any deviation of annual  
1807 expenditures from identified system needs related to inflow and  
1808 infiltration studies; model plans for pipe assessment, repair,  
1809 and replacement; and pipe assessment, repair, and replacement  
1810 required under s. 403.086(7). Substantial compliance with this  
1811 subsection is evidence in mitigation for the purposes of  
1812 assessing penalties pursuant to ss. 403.121 and 403.141;

1813 4. Contain such additional conditions, requirements, and  
1814 restrictions as the department deems necessary to preserve and  
1815 protect the quality of the receiving waters;

1816 ~~5.4-~~ Be valid for the period of time specified therein; and

1817 ~~6.5-~~ Constitute the state National Pollutant Discharge  
1818 Elimination System permit when issued pursuant to the authority  
1819 in s. 403.0885.

1820 (3) No later than March 1 of each year, the department  
1821 shall submit a report to the Governor, the President of the  
1822 Senate, and the Speaker of the House of Representatives which  
1823 identifies all domestic wastewater treatment facilities that  
1824 experienced a sanitary sewer overflow in the preceding calendar



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1825 year. The report must identify the utility name, operator,  
1826 permitted capacity in annual average gallons per day, the number  
1827 of overflows, and the total volume of sewage released, and, to  
1828 the extent known and available, the volume of sewage recovered,  
1829 the volume of sewage discharged to surface waters, and the cause  
1830 of the sanitary sewer overflow, including whether it was caused  
1831 by a third party. The department shall include with this report  
1832 the annual report specified under subparagraph (2)(c)3. for each  
1833 utility that experienced an overflow.

1834 Section 15. Subsection (6) of section 403.0891, Florida  
1835 Statutes, is amended to read:

1836 403.0891 State, regional, and local stormwater management  
1837 plans and programs.—The department, the water management  
1838 districts, and local governments shall have the responsibility  
1839 for the development of mutually compatible stormwater management  
1840 programs.

1841 (6) The department and the Department of Economic  
1842 Opportunity, in cooperation with local governments in the  
1843 coastal zone, shall develop a model stormwater management  
1844 program that could be adopted by local governments. The model  
1845 program must contain model ordinances that target nutrient  
1846 reduction practices and use green infrastructure. The model  
1847 program shall contain dedicated funding options, including a  
1848 stormwater utility fee system based upon an equitable unit cost  
1849 approach. Funding options shall be designed to generate capital  
1850 to retrofit existing stormwater management systems, build new  
1851 treatment systems, operate facilities, and maintain and service  
1852 debt.

1853 Section 16. Paragraphs (b) and (g) of subsection (2),



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1854 paragraph (b) of subsection (3), and subsections (8) and (9) of  
1855 section 403.121, Florida Statutes, are amended to read:

1856 403.121 Enforcement; procedure; remedies.—The department  
1857 shall have the following judicial and administrative remedies  
1858 available to it for violations of this chapter, as specified in  
1859 s. 403.161(1).

1860 (2) Administrative remedies:

1861 (b) If the department has reason to believe a violation has  
1862 occurred, it may institute an administrative proceeding to order  
1863 the prevention, abatement, or control of the conditions creating  
1864 the violation or other appropriate corrective action. Except for  
1865 violations involving hazardous wastes, asbestos, or underground  
1866 injection, the department shall proceed administratively in all  
1867 cases in which the department seeks administrative penalties  
1868 that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated  
1869 in accordance with subsections (3), (4), (5), (6), and (7).

1870 Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty  
1871 assessed pursuant to subsection (3), subsection (4), or  
1872 subsection (5) against a public water system serving a  
1873 population of more than 10,000 shall be not less than \$1,000 per  
1874 day per violation. The department shall not impose  
1875 administrative penalties in excess of \$50,000 ~~\$10,000~~ in a  
1876 notice of violation. The department shall not have more than one  
1877 notice of violation seeking administrative penalties pending  
1878 against the same party at the same time unless the violations  
1879 occurred at a different site or the violations were discovered  
1880 by the department subsequent to the filing of a previous notice  
1881 of violation.

1882 (g) Nothing herein shall be construed as preventing any



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1883 other legal or administrative action in accordance with law.  
1884 Nothing in this subsection shall limit the department's  
1885 authority provided in ss. 403.131, 403.141, and this section to  
1886 judicially pursue injunctive relief. When the department  
1887 exercises its authority to judicially pursue injunctive relief,  
1888 penalties in any amount up to the statutory maximum sought by  
1889 the department must be pursued as part of the state court action  
1890 and not by initiating a separate administrative proceeding. The  
1891 department retains the authority to judicially pursue penalties  
1892 in excess of \$50,000 ~~\$10,000~~ for violations not specifically  
1893 included in the administrative penalty schedule, or for multiple  
1894 or multiday violations alleged to exceed a total of \$50,000  
1895 ~~\$10,000~~. The department also retains the authority provided in  
1896 ss. 403.131, 403.141, and this section to judicially pursue  
1897 injunctive relief and damages, if a notice of violation seeking  
1898 the imposition of administrative penalties has not been issued.  
1899 The department has the authority to enter into a settlement,  
1900 either before or after initiating a notice of violation, and the  
1901 settlement may include a penalty amount different from the  
1902 administrative penalty schedule. Any case filed in state court  
1903 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in  
1904 penalties may be settled in the court action for less than  
1905 \$50,000 ~~\$10,000~~.

1906 (3) Except for violations involving hazardous wastes,  
1907 asbestos, or underground injection, administrative penalties  
1908 must be calculated according to the following schedule:

1909 (b) For failure to obtain a required wastewater permit,  
1910 other than a permit required for surface water discharge, the  
1911 department shall assess a penalty of \$2,000 ~~\$1,000~~. For a



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1912 domestic or industrial wastewater violation not involving a  
1913 surface water or groundwater quality violation, the department  
1914 shall assess a penalty of ~~\$4,000~~ ~~\$2,000~~ for an unpermitted or  
1915 unauthorized discharge or effluent-limitation exceedance or  
1916 failure to comply with s. 403.061(14) or s. 403.086(7) or rules  
1917 adopted thereunder. For an unpermitted or unauthorized discharge  
1918 or effluent-limitation exceedance that resulted in a surface  
1919 water or groundwater quality violation, the department shall  
1920 assess a penalty of \$10,000 ~~\$5,000~~.

1921 (8) The direct economic benefit gained by the violator from  
1922 the violation, where consideration of economic benefit is  
1923 provided by Florida law or required by federal law as part of a  
1924 federally delegated or approved program, shall be added to the  
1925 scheduled administrative penalty. The total administrative  
1926 penalty, including any economic benefit added to the scheduled  
1927 administrative penalty, shall not exceed \$20,000 ~~\$10,000~~.

1928 (9) The administrative penalties assessed for any  
1929 particular violation shall not exceed \$10,000 ~~\$5,000~~ against any  
1930 one violator, unless the violator has a history of  
1931 noncompliance, the economic benefit of the violation as  
1932 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are  
1933 multiday violations. The total administrative penalties shall  
1934 not exceed \$50,000 ~~\$10,000~~ per assessment for all violations  
1935 attributable to a specific person in the notice of violation.

1936 Section 17. Subsection (7) of section 403.1835, Florida  
1937 Statutes, is amended to read:

1938 403.1835 Water pollution control financial assistance.-

1939 (7) Eligible projects must be given priority according to  
1940 the extent each project is intended to remove, mitigate, or



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1941 prevent adverse effects on surface or ground water quality and  
1942 public health. The relative costs of achieving environmental and  
1943 public health benefits must be taken into consideration during  
1944 the department's assignment of project priorities. The  
1945 department shall adopt a priority system by rule. In developing  
1946 the priority system, the department shall give priority to  
1947 projects that:

1948 (a) Eliminate public health hazards;  
1949 (b) Enable compliance with laws requiring the elimination  
1950 of discharges to specific water bodies, including the  
1951 requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic  
1952 wastewater ocean outfalls;

1953 (c) Assist in the implementation of total maximum daily  
1954 loads adopted under s. 403.067;

1955 (d) Enable compliance with other pollution control  
1956 requirements, including, but not limited to, toxics control,  
1957 wastewater residuals management, and reduction of nutrients and  
1958 bacteria;

1959 (e) Assist in the implementation of surface water  
1960 improvement and management plans and pollutant load reduction  
1961 goals developed under state water policy;

1962 (f) Promote reclaimed water reuse;

1963 (g) Eliminate failing onsite sewage treatment and disposal  
1964 systems or those that are causing environmental damage; or

1965 (h) Reduce pollutants to and otherwise promote the  
1966 restoration of Florida's surface and ground waters.

1967 (i) Implement the requirements of ss. 403.086(7) and  
1968 403.088(2)(c).

1969 (j) Promote efficiency by planning for the installation of



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1970 wastewater transmission facilities to be constructed  
1971 concurrently with other construction projects occurring within  
1972 or along a transportation facility right-of-way.

1973 Section 18. Paragraph (b) of subsection (3) of section  
1974 403.1838, Florida Statutes, is amended to read:

1975 403.1838 Small Community Sewer Construction Assistance  
1976 Act.—

1977 (3)

1978 (b) The rules of the Environmental Regulation Commission  
1979 must:

1980 1. Require that projects to plan, design, construct,  
1981 upgrade, or replace wastewater collection, transmission,  
1982 treatment, disposal, and reuse facilities be cost-effective,  
1983 environmentally sound, permissible, and implementable.

1984 2. Require appropriate user charges, connection fees, and  
1985 other charges sufficient to ensure the long-term operation,  
1986 maintenance, and replacement of the facilities constructed under  
1987 each grant.

1988 3. Require grant applications to be submitted on  
1989 appropriate forms with appropriate supporting documentation, and  
1990 require records to be maintained.

1991 4. Establish a system to determine eligibility of grant  
1992 applications.

1993 5. Establish a system to determine the relative priority of  
1994 grant applications. The system must consider public health  
1995 protection and water pollution prevention or abatement and must  
1996 prioritize projects that plan for the installation of wastewater  
1997 transmission facilities to be constructed concurrently with  
1998 other construction projects occurring within or along a



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1999 transportation facility right-of-way.

2000 6. Establish requirements for competitive procurement of  
2001 engineering and construction services, materials, and equipment.

2002 7. Provide for termination of grants when program  
2003 requirements are not met.

2004 Section 19. The Legislature determines and declares that  
2005 this act fulfills an important state interest.

2006 Section 20. Effective July 1, 2021, subsection (5) of  
2007 section 153.54, Florida Statutes, is amended to read:

2008 153.54 Preliminary report by county commissioners with  
2009 respect to creation of proposed district.—Upon receipt of a  
2010 petition duly signed by not less than 25 qualified electors who  
2011 are also freeholders residing within an area proposed to be  
2012 incorporated into a water and sewer district pursuant to this  
2013 law and describing in general terms the proposed boundaries of  
2014 such proposed district, the board of county commissioners if it  
2015 shall deem it necessary and advisable to create and establish  
2016 such proposed district for the purpose of constructing,  
2017 establishing or acquiring a water system or a sewer system or  
2018 both in and for such district (herein called "improvements"),  
2019 shall first cause a preliminary report to be made which such  
2020 report together with any other relevant or pertinent matters,  
2021 shall include at least the following:

2022 (5) For the construction of a new proposed central sewerage  
2023 system or the extension of an existing sewerage system that was  
2024 not previously approved, the report shall include a study that  
2025 includes the available information from the Department of  
2026 Environmental Protection ~~Health~~ on the history of onsite sewage  
2027 treatment and disposal systems currently in use in the area and



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2028 a comparison of the projected costs to the owner of a typical  
2029 lot or parcel of connecting to and using the proposed sewerage  
2030 system versus installing, operating, and properly maintaining an  
2031 onsite sewage treatment and disposal system that is approved by  
2032 the Department of Environmental Protection Health and that  
2033 provides for the comparable level of environmental and health  
2034 protection as the proposed central sewerage system;  
2035 consideration of the local authority's obligations or reasonably  
2036 anticipated obligations for water body cleanup and protection  
2037 under state or federal programs, including requirements for  
2038 water bodies listed under s. 303(d) of the Clean Water Act, Pub.  
2039 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors  
2040 deemed relevant by the local authority.

2041  
2042 Such report shall be filed in the office of the clerk of the  
2043 circuit court and shall be open for the inspection of any  
2044 taxpayer, property owner, qualified elector or any other  
2045 interested or affected person.

2046 Section 21. Effective July 1, 2021, paragraph (c) of  
2047 subsection (2) of section 153.73, Florida Statutes, is amended  
2048 to read:

2049 153.73 Assessable improvements; levy and payment of special  
2050 assessments.—Any district may provide for the construction or  
2051 reconstruction of assessable improvements as defined in s.

2052 153.52, and for the levying of special assessments upon  
2053 benefited property for the payment thereof, under ~~the provisions~~  
2054 ~~of~~ this section.

2055 (2)

2056 (c) For the construction of a new proposed central sewerage



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2057 system or the extension of an existing sewerage system that was  
2058 not previously approved, the report shall include a study that  
2059 includes the available information from the Department of  
2060 Environmental Protection Health on the history of onsite sewage  
2061 treatment and disposal systems currently in use in the area and  
2062 a comparison of the projected costs to the owner of a typical  
2063 lot or parcel of connecting to and using the proposed sewerage  
2064 system versus installing, operating, and properly maintaining an  
2065 onsite sewage treatment and disposal system that is approved by  
2066 the Department of Environmental Protection Health and that  
2067 provides for the comparable level of environmental and health  
2068 protection as the proposed central sewerage system;  
2069 consideration of the local authority's obligations or reasonably  
2070 anticipated obligations for water body cleanup and protection  
2071 under state or federal programs, including requirements for  
2072 water bodies listed under s. 303(d) of the Clean Water Act, Pub.  
2073 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors  
2074 deemed relevant by the local authority.

2075 Section 22. Effective July 1, 2021, subsection (2) of  
2076 section 163.3180, Florida Statutes, is amended to read:  
2077 163.3180 Concurrency.—

2078 (2) Consistent with public health and safety, sanitary  
2079 sewer, solid waste, drainage, adequate water supplies, and  
2080 potable water facilities shall be in place and available to  
2081 serve new development no later than the issuance by the local  
2082 government of a certificate of occupancy or its functional  
2083 equivalent. Prior to approval of a building permit or its  
2084 functional equivalent, the local government shall consult with  
2085 the applicable water supplier to determine whether adequate



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2086 water supplies to serve the new development will be available no  
2087 later than the anticipated date of issuance by the local  
2088 government of a certificate of occupancy or its functional  
2089 equivalent. A local government may meet the concurrency  
2090 requirement for sanitary sewer through the use of onsite sewage  
2091 treatment and disposal systems approved by the Department of  
2092 Environmental Protection Health to serve new development.

2093 Section 23. Effective July 1, 2021, subsection (3) of  
2094 section 180.03, Florida Statutes, is amended to read:

2095 180.03 Resolution or ordinance proposing construction or  
2096 extension of utility; objections to same.—

2097 (3) For the construction of a new proposed central sewerage  
2098 system or the extension of an existing central sewerage system  
2099 that was not previously approved, the report shall include a  
2100 study that includes the available information from the  
2101 Department of Environmental Protection Health on the history of  
2102 onsite sewage treatment and disposal systems currently in use in  
2103 the area and a comparison of the projected costs to the owner of  
2104 a typical lot or parcel of connecting to and using the proposed  
2105 central sewerage system versus installing, operating, and  
2106 properly maintaining an onsite sewage treatment and disposal  
2107 system that is approved by the Department of Environmental  
2108 Protection Health and that provides for the comparable level of  
2109 environmental and health protection as the proposed central  
2110 sewerage system; consideration of the local authority's  
2111 obligations or reasonably anticipated obligations for water body  
2112 cleanup and protection under state or federal programs,  
2113 including requirements for water bodies listed under s. 303(d)  
2114 of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251



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2115 et seq.; and other factors deemed relevant by the local  
2116 authority. The results of such a study shall be included in the  
2117 resolution or ordinance required under subsection (1).

2118 Section 24. Subsections (2), (3), and (6) of section  
2119 311.105, Florida Statutes, are amended to read:

2120 311.105 Florida Seaport Environmental Management Committee;  
2121 permitting; mitigation.—

2122 (2) Each application for a permit authorized pursuant to s.  
2123 403.061(38) ~~s. 403.061(37)~~ must include:

2124 (a) A description of maintenance dredging activities to be  
2125 conducted and proposed methods of dredged-material management.

2126 (b) A characterization of the materials to be dredged and  
2127 the materials within dredged-material management sites.

2128 (c) A description of dredged-material management sites and  
2129 plans.

2130 (d) A description of measures to be undertaken, including  
2131 environmental compliance monitoring, to minimize adverse  
2132 environmental effects of maintenance dredging and dredged-  
2133 material management.

2134 (e) Such scheduling information as is required to  
2135 facilitate state supplementary funding of federal maintenance  
2136 dredging and dredged-material management programs consistent  
2137 with beach restoration criteria of the Department of  
2138 Environmental Protection.

2139 (3) Each application for a permit authorized pursuant to s.  
2140 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~  
2141 paragraphs (2)(b)-(e) and the following:

2142 (a) A description of dredging and dredged-material  
2143 management and other related activities associated with port





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2144 development, including the expansion of navigation channels,  
2145 dredged-material management sites, port harbors, turning basins,  
2146 harbor berths, and associated facilities.

2147 (b) A discussion of environmental mitigation as is proposed  
2148 for dredging and dredged-material management for port  
2149 development, including the expansion of navigation channels,  
2150 dredged-material management sites, port harbors, turning basins,  
2151 harbor berths, and associated facilities.

2152 (6) Dredged-material management activities authorized  
2153 pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~  
2154 shall be incorporated into port master plans developed pursuant  
2155 to s. 163.3178(2)(k).

2156 Section 25. Paragraph (d) of subsection (1) of section  
2157 327.46, Florida Statutes, is amended to read:

2158 327.46 Boating-restricted areas.-

2159 (1) Boating-restricted areas, including, but not limited  
2160 to, restrictions of vessel speeds and vessel traffic, may be  
2161 established on the waters of this state for any purpose  
2162 necessary to protect the safety of the public if such  
2163 restrictions are necessary based on boating accidents,  
2164 visibility, hazardous currents or water levels, vessel traffic  
2165 congestion, or other navigational hazards or to protect  
2166 seagrasses on privately owned submerged lands.

2167 (d) Owners of private submerged lands that are adjacent to  
2168 Outstanding Florida Waters, as defined in s. 403.061(28) ~~s.~~  
2169 ~~403.061(27)~~, or an aquatic preserve established under ss.  
2170 258.39-258.399 may request that the commission establish  
2171 boating-restricted areas solely to protect any seagrass and  
2172 contiguous seagrass habitat within their private property



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2173 boundaries from seagrass scarring due to propeller dredging.  
2174 Owners making a request pursuant to this paragraph must  
2175 demonstrate to the commission clear ownership of the submerged  
2176 lands. The commission shall adopt rules to implement this  
2177 paragraph, including, but not limited to, establishing an  
2178 application process and criteria for meeting the requirements of  
2179 this paragraph. Each approved boating-restricted area shall be  
2180 established by commission rule. For marking boating-restricted  
2181 zones established pursuant to this paragraph, owners of  
2182 privately submerged lands shall apply to the commission for a  
2183 uniform waterway marker permit in accordance with ss. 327.40 and  
2184 327.41, and shall be responsible for marking the boating-  
2185 restricted zone in accordance with the terms of the permit.

2186 Section 26. Paragraph (d) of subsection (3) of section  
2187 373.250, Florida Statutes, is amended to read:

2188 373.250 Reuse of reclaimed water.-

2189 (3)

2190 (d) The South Florida Water Management District shall  
2191 require the use of reclaimed water made available by the  
2192 elimination of wastewater ocean outfall discharges as provided  
2193 for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or  
2194 groundwater when the use of reclaimed water is available; is  
2195 environmentally, economically, and technically feasible; and is  
2196 of such quality and reliability as is necessary to the user.  
2197 Such reclaimed water may also be required in lieu of other  
2198 alternative sources. In determining whether to require such  
2199 reclaimed water in lieu of other alternative sources, the water  
2200 management district shall consider existing infrastructure  
2201 investments in place or obligated to be constructed by an



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2202 executed contract or similar binding agreement as of July 1,  
2203 2011, for the development of other alternative sources.

2204 Section 27. Subsection (9) of section 373.414, Florida  
2205 Statutes, is amended to read:

2206 373.414 Additional criteria for activities in surface  
2207 waters and wetlands.—

2208 (9) The department and the governing boards, on or before  
2209 July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~  
2210 this section, relying primarily on the existing rules of the  
2211 department and the water management districts, into the rules  
2212 governing the management and storage of surface waters. Such  
2213 rules shall seek to achieve a statewide, coordinated and  
2214 consistent permitting approach to activities regulated under  
2215 this part. Variations in permitting criteria in the rules of  
2216 individual water management districts or the department shall  
2217 only be provided to address differing physical or natural  
2218 characteristics. Such rules adopted pursuant to this subsection  
2219 shall include the special criteria adopted pursuant to s.  
2220 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria  
2221 adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules  
2222 shall include a provision requiring that a notice of intent to  
2223 deny or a permit denial based upon this section shall contain an  
2224 explanation of the reasons for such denial and an explanation,  
2225 in general terms, of what changes, if any, are necessary to  
2226 address such reasons for denial. Such rules may establish  
2227 exemptions and general permits, if such exemptions and general  
2228 permits do not allow significant adverse impacts to occur  
2229 individually or cumulatively. Such rules may require submission  
2230 of proof of financial responsibility which may include the



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2231 posting of a bond or other form of surety prior to the  
2232 commencement of construction to provide reasonable assurance  
2233 that any activity permitted pursuant to this section, including  
2234 any mitigation for such permitted activity, will be completed in  
2235 accordance with the terms and conditions of the permit once the  
2236 construction is commenced. Until rules adopted pursuant to this  
2237 subsection become effective, existing rules adopted under this  
2238 part and rules adopted pursuant to the authority of ss. 403.91-  
2239 403.929 shall be deemed authorized under this part and shall  
2240 remain in full force and effect. Neither the department nor the  
2241 governing boards are limited or prohibited from amending any  
2242 such rules.

2243 Section 28. Paragraph (b) of subsection (4) of section  
2244 373.705, Florida Statutes, is amended to read:

2245 373.705 Water resource development; water supply  
2246 development.—

2247 (4)

2248 (b) Water supply development projects that meet the  
2249 criteria in paragraph (a) and that meet one or more of the  
2250 following additional criteria shall be given first consideration  
2251 for state or water management district funding assistance:

2252 1. The project brings about replacement of existing sources  
2253 in order to help implement a minimum flow or minimum water  
2254 level;

2255 2. The project implements reuse that assists in the  
2256 elimination of domestic wastewater ocean outfalls as provided in  
2257 s. 403.086(10) ~~s. 403.086(9)~~; or

2258 3. The project reduces or eliminates the adverse effects of  
2259 competition between legal users and the natural system.



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2260 Section 29. Paragraph (f) of subsection (8) of section  
2261 373.707, Florida Statutes, is amended to read:  
2262 373.707 Alternative water supply development.—  
2263 (8)  
2264 (f) The governing boards shall determine those projects  
2265 that will be selected for financial assistance. The governing  
2266 boards may establish factors to determine project funding;  
2267 however, significant weight shall be given to the following  
2268 factors:  
2269 1. Whether the project provides substantial environmental  
2270 benefits by preventing or limiting adverse water resource  
2271 impacts.  
2272 2. Whether the project reduces competition for water  
2273 supplies.  
2274 3. Whether the project brings about replacement of  
2275 traditional sources in order to help implement a minimum flow or  
2276 level or a reservation.  
2277 4. Whether the project will be implemented by a consumptive  
2278 use permittee that has achieved the targets contained in a goal-  
2279 based water conservation program approved pursuant to s.  
2280 373.227.  
2281 5. The quantity of water supplied by the project as  
2282 compared to its cost.  
2283 6. Projects in which the construction and delivery to end  
2284 users of reuse water is a major component.  
2285 7. Whether the project will be implemented by a  
2286 multijurisdictional water supply entity or regional water supply  
2287 authority.  
2288 8. Whether the project implements reuse that assists in the



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2289 elimination of domestic wastewater ocean outfalls as provided in  
2290 s. 403.086(10) ~~s. 403.086(9)~~.  
2291 9. Whether the county or municipality, or the multiple  
2292 counties or municipalities, in which the project is located has  
2293 implemented a high-water recharge protection tax assessment  
2294 program as provided in s. 193.625.  
2295 Section 30. Subsection (4) of section 373.709, Florida  
2296 Statutes, is amended to read:  
2297 373.709 Regional water supply planning.—  
2298 (4) The South Florida Water Management District shall  
2299 include in its regional water supply plan water resource and  
2300 water supply development projects that promote the elimination  
2301 of wastewater ocean outfalls as provided in s. 403.086(10) ~~s.~~  
2302 ~~403.086(9)~~.  
2303 Section 31. Effective July 1, 2021, subsection (3) of  
2304 section 373.807, Florida Statutes, is amended to read:  
2305 373.807 Protection of water quality in Outstanding Florida  
2306 Springs.—By July 1, 2016, the department shall initiate  
2307 assessment, pursuant to s. 403.067(3), of Outstanding Florida  
2308 Springs or spring systems for which an impairment determination  
2309 has not been made under the numeric nutrient standards in effect  
2310 for spring vents. Assessments must be completed by July 1, 2018.  
2311 (3) As part of a basin management action plan that includes  
2312 an Outstanding Florida Spring, the department, ~~the Department of~~  
2313 ~~Health~~, relevant local governments, and relevant local public  
2314 and private wastewater utilities shall develop an onsite sewage  
2315 treatment and disposal system remediation plan for a spring if  
2316 the department determines onsite sewage treatment and disposal  
2317 systems within a priority focus area contribute at least 20



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2318 percent of nonpoint source nitrogen pollution or if the  
2319 department determines remediation is necessary to achieve the  
2320 total maximum daily load. The plan shall identify cost-effective  
2321 and financially feasible projects necessary to reduce the  
2322 nutrient impacts from onsite sewage treatment and disposal  
2323 systems and shall be completed and adopted as part of the basin  
2324 management action plan no later than the first 5-year milestone  
2325 required by subparagraph (1)(b)8. The department is the lead  
2326 agency in coordinating the preparation of and the adoption of  
2327 the plan. The department shall:

2328 (a) Collect and evaluate credible scientific information on  
2329 the effect of nutrients, particularly forms of nitrogen, on  
2330 springs and springs systems; and

2331 (b) Develop a public education plan to provide area  
2332 residents with reliable, understandable information about onsite  
2333 sewage treatment and disposal systems and springs.

2334  
2335 In addition to the requirements in s. 403.067, the plan shall  
2336 include options for repair, upgrade, replacement, drainfield  
2337 modification, addition of effective nitrogen reducing features,  
2338 connection to a central sewerage system, or other action for an  
2339 onsite sewage treatment and disposal system or group of systems  
2340 within a priority focus area that contribute at least 20 percent  
2341 of nonpoint source nitrogen pollution or if the department  
2342 determines remediation is necessary to achieve a total maximum  
2343 daily load. For these systems, the department shall include in  
2344 the plan a priority ranking for each system or group of systems  
2345 that requires remediation and shall award funds to implement the  
2346 remediation projects contingent on an appropriation in the



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2347 General Appropriations Act, which may include all or part of the  
2348 costs necessary for repair, upgrade, replacement, drainfield  
2349 modification, addition of effective nitrogen reducing features,  
2350 initial connection to a central sewerage system, or other  
2351 action. In awarding funds, the department may consider expected  
2352 nutrient reduction benefit per unit cost, size and scope of  
2353 project, relative local financial contribution to the project,  
2354 and the financial impact on property owners and the community.  
2355 The department may waive matching funding requirements for  
2356 proposed projects within an area designated as a rural area of  
2357 opportunity under s. 288.0656.

2358 Section 32. Paragraph (k) of subsection (1) of section  
2359 376.307, Florida Statutes, is amended to read:

2360 376.307 Water Quality Assurance Trust Fund.—

2361 (1) The Water Quality Assurance Trust Fund is intended to  
2362 serve as a broad-based fund for use in responding to incidents  
2363 of contamination that pose a serious danger to the quality of  
2364 groundwater and surface water resources or otherwise pose a  
2365 serious danger to the public health, safety, or welfare. Moneys  
2366 in this fund may be used:

2367 (k) For funding activities described in s. 403.086(10) ~~s.~~  
2368 ~~403.086(9)~~ which are authorized for implementation under the  
2369 Leah Schad Memorial Ocean Outfall Program.

2370 Section 33. Paragraph (i) of subsection (2), paragraph (b)  
2371 of subsection (4), paragraph (j) of subsection (7), and  
2372 paragraph (a) of subsection (9) of section 380.0552, Florida  
2373 Statutes, are amended to read:

2374 380.0552 Florida Keys Area; protection and designation as  
2375 area of critical state concern.—



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2376 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature  
2377 to:

2378 (i) Protect and improve the nearshore water quality of the  
2379 Florida Keys through federal, state, and local funding of water  
2380 quality improvement projects, including the construction and  
2381 operation of wastewater management facilities that meet the  
2382 requirements of ss. 381.0065(4)(1) and 403.086(11) ~~403.086(10)~~,  
2383 as applicable.

2384 (4) REMOVAL OF DESIGNATION.—

2385 (b) Beginning November 30, 2010, the state land planning  
2386 agency shall annually submit a written report to the  
2387 Administration Commission describing the progress of the Florida  
2388 Keys Area toward completing the work program tasks specified in  
2389 commission rules. The land planning agency shall recommend  
2390 removing the Florida Keys Area from being designated as an area  
2391 of critical state concern to the commission if it determines  
2392 that:

2393 1. All of the work program tasks have been completed,  
2394 including construction of, operation of, and connection to  
2395 central wastewater management facilities pursuant to s.  
2396 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage  
2397 treatment and disposal systems pursuant to s. 381.0065(4)(1);

2398 2. All local comprehensive plans and land development  
2399 regulations and the administration of such plans and regulations  
2400 are adequate to protect the Florida Keys Area, fulfill the  
2401 legislative intent specified in subsection (2), and are  
2402 consistent with and further the principles guiding development;  
2403 and

2404 3. A local government has adopted a resolution at a public



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2405 hearing recommending the removal of the designation.

2406 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,  
2407 and local agencies and units of government in the Florida Keys  
2408 Area shall coordinate their plans and conduct their programs and  
2409 regulatory activities consistent with the principles for guiding  
2410 development as specified in chapter 27F-8, Florida  
2411 Administrative Code, as amended effective August 23, 1984, which  
2412 is adopted and incorporated herein by reference. For the  
2413 purposes of reviewing the consistency of the adopted plan, or  
2414 any amendments to that plan, with the principles for guiding  
2415 development, and any amendments to the principles, the  
2416 principles shall be construed as a whole and specific provisions  
2417 may not be construed or applied in isolation from the other  
2418 provisions. However, the principles for guiding development are  
2419 repealed 18 months from July 1, 1986. After repeal, any plan  
2420 amendments must be consistent with the following principles:

2421 (j) Ensuring the improvement of nearshore water quality by  
2422 requiring the construction and operation of wastewater  
2423 management facilities that meet the requirements of ss.  
2424 381.0065(4)(1) and s. 403.086(11) ~~403.086(10)~~, as applicable,  
2425 and by directing growth to areas served by central wastewater  
2426 treatment facilities through permit allocation systems.

2427 (9) MODIFICATION TO PLANS AND REGULATIONS.—

2428 (a) Any land development regulation or element of a local  
2429 comprehensive plan in the Florida Keys Area may be enacted,  
2430 amended, or rescinded by a local government, but the enactment,  
2431 amendment, or rescission becomes effective only upon approval by  
2432 the state land planning agency. The state land planning agency  
2433 shall review the proposed change to determine if it is in



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2434 compliance with the principles for guiding development specified  
2435 in chapter 27F-8, Florida Administrative Code, as amended  
2436 effective August 23, 1984, and must approve or reject the  
2437 requested changes within 60 days after receipt. Amendments to  
2438 local comprehensive plans in the Florida Keys Area must also be  
2439 reviewed for compliance with the following:

2440 1. Construction schedules and detailed capital financing  
2441 plans for wastewater management improvements in the annually  
2442 adopted capital improvements element, and standards for the  
2443 construction of wastewater treatment and disposal facilities or  
2444 collection systems that meet or exceed the criteria in s.  
2445 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal  
2446 facilities or s. 381.0065(4)(1) for onsite sewage treatment and  
2447 disposal systems.

2448 2. Goals, objectives, and policies to protect public safety  
2449 and welfare in the event of a natural disaster by maintaining a  
2450 hurricane evacuation clearance time for permanent residents of  
2451 no more than 24 hours. The hurricane evacuation clearance time  
2452 shall be determined by a hurricane evacuation study conducted in  
2453 accordance with a professionally accepted methodology and  
2454 approved by the state land planning agency.

2455 Section 34. Effective July 1, 2021, subsections (7) and  
2456 (18) of section 381.006, Florida Statutes, are amended to read:

2457 381.006 Environmental health.—The department shall conduct  
2458 an environmental health program as part of fulfilling the  
2459 state's public health mission. The purpose of this program is to  
2460 detect and prevent disease caused by natural and manmade factors  
2461 in the environment. The environmental health program shall  
2462 include, but not be limited to:



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2463 ~~(7) An onsite sewage treatment and disposal function.~~  
2464 ~~(17)-(18)~~ A food service inspection function for domestic  
2465 violence centers that are certified by the Department of  
2466 Children and Families and monitored by the Florida Coalition  
2467 Against Domestic Violence under part XII of chapter 39 and group  
2468 care homes as described in subsection (15) ~~(16)~~, which shall be  
2469 conducted annually and be limited to the requirements in  
2470 department rule applicable to community-based residential  
2471 facilities with five or fewer residents.

2472  
2473 The department may adopt rules to carry out the provisions of  
2474 this section.

2475 Section 35. Effective July 1, 2021, subsection (1) of  
2476 section 381.0061, Florida Statutes, is amended to read:

2477 381.0061 Administrative fines.—

2478 (1) In addition to any administrative action authorized by  
2479 chapter 120 or by other law, the department may impose a fine,  
2480 which ~~may shall~~ not exceed \$500 for each violation, for a  
2481 violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s.  
2482 381.0066, s. 381.0072, or part III of chapter 489, for a  
2483 violation of any rule adopted under this chapter, or for a  
2484 violation of ~~any of the provisions of~~ chapter 386. Notice of  
2485 intent to impose such fine shall be given by the department to  
2486 the alleged violator. Each day that a violation continues may  
2487 constitute a separate violation.

2488 Section 36. Effective July 1, 2021, subsection (1) of  
2489 section 381.0064, Florida Statutes, is amended to read:

2490 381.0064 Continuing education courses for persons  
2491 installing or servicing septic tanks.—



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2492 (1) The Department of ~~Environmental Protection Health~~ shall  
2493 establish a program for continuing education which meets the  
2494 purposes of ss. 381.0101 and 489.554 regarding the public health  
2495 and environmental effects of onsite sewage treatment and  
2496 disposal systems and any other matters the department determines  
2497 desirable for the safe installation and use of onsite sewage  
2498 treatment and disposal systems. The department may charge a fee  
2499 to cover the cost of such program.

2500 Section 37. Effective July 1, 2021, paragraph (d) of  
2501 subsection (7), subsection (8), and paragraphs (b), (c), and (d)  
2502 of subsection (9) of section 381.00651, Florida Statutes, are  
2503 amended to read:

2504 381.00651 Periodic evaluation and assessment of onsite  
2505 sewage treatment and disposal systems.—

2506 (7) The following procedures shall be used for conducting  
2507 evaluations:

2508 (d) *Assessment procedure.*—All evaluation procedures used by  
2509 a qualified contractor shall be documented in the environmental  
2510 health database of the Department of Environmental Protection  
2511 ~~Health~~. The qualified contractor shall provide a copy of a  
2512 written, signed evaluation report to the property owner upon  
2513 completion of the evaluation and to the county health department  
2514 within 30 days after the evaluation. The report ~~must shall~~  
2515 contain the name and license number of the company providing the  
2516 report. A copy of the evaluation report shall be retained by the  
2517 local county health department for a minimum of 5 years and  
2518 until a subsequent inspection report is filed. The front cover  
2519 of the report must identify any system failure and include a  
2520 clear and conspicuous notice to the owner that the owner has a



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2521 right to have any remediation of the failure performed by a  
2522 qualified contractor other than the contractor performing the  
2523 evaluation. The report must further identify any crack, leak,  
2524 improper fit, or other defect in the tank, manhole, or lid, and  
2525 any other damaged or missing component; any sewage or effluent  
2526 visible on the ground or discharging to a ditch or other surface  
2527 water body; any downspout, stormwater, or other source of water  
2528 directed onto or toward the system; and any other maintenance  
2529 need or condition of the system at the time of the evaluation  
2530 which, in the opinion of the qualified contractor, would  
2531 possibly interfere with or restrict any future repair or  
2532 modification to the existing system. The report shall conclude  
2533 with an overall assessment of the fundamental operational  
2534 condition of the system.

2535 (8) The county health department, in coordination with the  
2536 department, shall administer any evaluation program on behalf of  
2537 a county, or a municipality within the county, that has adopted  
2538 an evaluation program pursuant to this section. In order to  
2539 administer the evaluation program, the county or municipality,  
2540 in consultation with the county health department, may develop a  
2541 reasonable fee schedule to be used solely to pay for the costs  
2542 of administering the evaluation program. Such a fee schedule  
2543 shall be identified in the ordinance that adopts the evaluation  
2544 program. When arriving at a reasonable fee schedule, the  
2545 estimated annual revenues to be derived from fees may not exceed  
2546 reasonable estimated annual costs of the program. Fees shall be  
2547 assessed to the system owner during an inspection and separately  
2548 identified on the invoice of the qualified contractor. Fees  
2549 shall be remitted by the qualified contractor to the county



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2550 health department. The county health department's administrative  
2551 responsibilities include the following:

2552 (a) Providing a notice to the system owner at least 60 days  
2553 before the system is due for an evaluation. The notice may  
2554 include information on the proper maintenance of onsite sewage  
2555 treatment and disposal systems.

2556 (b) In consultation with the department ~~of Health~~,  
2557 providing uniform disciplinary procedures and penalties for  
2558 qualified contractors who do not comply with the requirements of  
2559 the adopted ordinance, including, but not limited to, failure to  
2560 provide the evaluation report as required in this subsection to  
2561 the system owner and the county health department. Only the  
2562 county health department may assess penalties against system  
2563 owners for failure to comply with the adopted ordinance,  
2564 consistent with existing requirements of law.

2565 (9)

2566 (b) Upon receipt of the notice under paragraph (a), the  
2567 department ~~of Environmental Protection~~ shall, within existing  
2568 resources, notify the county or municipality of the potential  
2569 use of, and access to, program funds under the Clean Water State  
2570 Revolving Fund or s. 319 of the Clean Water Act, provide  
2571 guidance in the application process to receive such moneys, and  
2572 provide advice and technical assistance to the county or  
2573 municipality on how to establish a low-interest revolving loan  
2574 program or how to model a revolving loan program after the low-  
2575 interest loan program of the Clean Water State Revolving Fund.  
2576 This paragraph does not obligate the department ~~of Environmental~~  
2577 ~~Protection~~ to provide any county or municipality with money to  
2578 fund such programs.



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2579 (c) The department ~~of Health~~ may not adopt any rule that  
2580 alters ~~the provisions of~~ this section.

2581 (d) The department ~~of Health~~ must allow county health  
2582 departments and qualified contractors access to the  
2583 environmental health database to track relevant information and  
2584 assimilate data from assessment and evaluation reports of the  
2585 overall condition of onsite sewage treatment and disposal  
2586 systems. The environmental health database must be used by  
2587 contractors to report each service and evaluation event and by a  
2588 county health department to notify owners of onsite sewage  
2589 treatment and disposal systems when evaluations are due. Data  
2590 and information must be recorded and updated as service and  
2591 evaluations are conducted and reported.

2592 Section 38. Effective July 1, 2021, paragraph (g) of  
2593 subsection (1) of section 381.0101, Florida Statutes, is amended  
2594 to read:

2595 381.0101 Environmental health professionals.—

2596 (1) DEFINITIONS.—As used in this section:

2597 (g) "Primary environmental health program" means those  
2598 programs determined by the department to be essential for  
2599 providing basic environmental and sanitary protection to the  
2600 public. At a minimum, these programs shall include food  
2601 protection program work ~~and onsite sewage treatment and disposal~~  
2602 ~~system evaluations.~~

2603 Section 39. Section 403.08601, Florida Statutes, is amended  
2604 to read:

2605 403.08601 Leah Schad Memorial Ocean Outfall Program.—The  
2606 Legislature declares that as funds become available the state  
2607 may assist the local governments and agencies responsible for





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2608 implementing the Leah Schad Memorial Ocean Outfall Program  
2609 pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from  
2610 other sources provided for in law, the General Appropriations  
2611 Act, from gifts designated for implementation of the plan from  
2612 individuals, corporations, or other entities, or federal funds  
2613 appropriated by Congress for implementation of the plan, may be  
2614 deposited into an account of the Water Quality Assurance Trust  
2615 Fund.

2616 Section 40. Section 403.0871, Florida Statutes, is amended  
2617 to read:

2618 403.0871 Florida Permit Fee Trust Fund.—There is  
2619 established within the department a nonlapsing trust fund to be  
2620 known as the "Florida Permit Fee Trust Fund." All funds received  
2621 from applicants for permits pursuant to ss. 161.041, 161.053,  
2622 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7) (a) shall be  
2623 deposited in the Florida Permit Fee Trust Fund and shall be used  
2624 by the department with the advice and consent of the Legislature  
2625 to supplement appropriations and other funds received by the  
2626 department for the administration of its responsibilities under  
2627 this chapter and chapter 161. In no case shall funds from the  
2628 Florida Permit Fee Trust Fund be used for salary increases  
2629 without the approval of the Legislature.

2630 Section 41. Paragraph (a) of subsection (11) of section  
2631 403.0872, Florida Statutes, is amended to read:

2632 403.0872 Operation permits for major sources of air  
2633 pollution; annual operation license fee.—Provided that program  
2634 approval pursuant to 42 U.S.C. s. 7661a has been received from  
2635 the United States Environmental Protection Agency, beginning  
2636 January 2, 1995, each major source of air pollution, including



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2637 electrical power plants certified under s. 403.511, must obtain  
2638 from the department an operation permit for a major source of  
2639 air pollution under this section. This operation permit is the  
2640 only department operation permit for a major source of air  
2641 pollution required for such source; provided, at the applicant's  
2642 request, the department shall issue a separate acid rain permit  
2643 for a major source of air pollution that is an affected source  
2644 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits  
2645 for major sources of air pollution, except general permits  
2646 issued pursuant to s. 403.814, must be issued in accordance with  
2647 the procedures contained in this section and in accordance with  
2648 chapter 120; however, to the extent that chapter 120 is  
2649 inconsistent with ~~the provisions of~~ this section, the procedures  
2650 contained in this section prevail.

2651 (11) Each major source of air pollution permitted to  
2652 operate in this state must pay between January 15 and April 1 of  
2653 each year, upon written notice from the department, an annual  
2654 operation license fee in an amount determined by department  
2655 rule. The annual operation license fee shall be terminated  
2656 immediately in the event the United States Environmental  
2657 Protection Agency imposes annual fees solely to implement and  
2658 administer the major source air-operation permit program in  
2659 Florida under 40 C.F.R. s. 70.10(d).

2660 (a) The annual fee must be assessed based upon the source's  
2661 previous year's emissions and must be calculated by multiplying  
2662 the applicable annual operation license fee factor times the  
2663 tons of each regulated air pollutant actually emitted, as  
2664 calculated in accordance with the department's emissions  
2665 computation and reporting rules. The annual fee shall only apply



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2666 to those regulated pollutants, except carbon monoxide and  
2667 greenhouse gases, for which an allowable numeric emission  
2668 limiting standard is specified in the source's most recent  
2669 construction or operation permit; provided, however, that:

2670 1. The license fee factor is \$25 or another amount  
2671 determined by department rule which ensures that the revenue  
2672 provided by each year's operation license fees is sufficient to  
2673 cover all reasonable direct and indirect costs of the major  
2674 stationary source air-operation permit program established by  
2675 this section. The license fee factor may be increased beyond \$25  
2676 only if the secretary of the department affirmatively finds that  
2677 a shortage of revenue for support of the major stationary source  
2678 air-operation permit program will occur in the absence of a fee  
2679 factor adjustment. The annual license fee factor may never  
2680 exceed \$35.

2681 2. The amount of each regulated air pollutant in excess of  
2682 4,000 tons per year emitted by any source, or group of sources  
2683 belonging to the same Major Group as described in the Standard  
2684 Industrial Classification Manual, 1987, may not be included in  
2685 the calculation of the fee. Any source, or group of sources,  
2686 which does not emit any regulated air pollutant in excess of  
2687 4,000 tons per year, is allowed a one-time credit not to exceed  
2688 25 percent of the first annual licensing fee for the prorated  
2689 portion of existing air-operation permit application fees  
2690 remaining upon commencement of the annual licensing fees.

2691 3. If the department has not received the fee by March 1 of  
2692 the calendar year, the permittee must be sent a written warning  
2693 of the consequences for failing to pay the fee by April 1. If  
2694 the fee is not postmarked by April 1 of the calendar year, the



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2695 department shall impose, in addition to the fee, a penalty of 50  
2696 percent of the amount of the fee, plus interest on such amount  
2697 computed in accordance with s. 220.807. The department may not  
2698 impose such penalty or interest on any amount underpaid,  
2699 provided that the permittee has timely remitted payment of at  
2700 least 90 percent of the amount determined to be due and remits  
2701 full payment within 60 days after receipt of notice of the  
2702 amount underpaid. The department may waive the collection of  
2703 underpayment and may shall not be required to refund overpayment  
2704 of the fee, if the amount due is less than 1 percent of the fee,  
2705 up to \$50. The department may revoke any major air pollution  
2706 source operation permit if it finds that the permitholder has  
2707 failed to timely pay any required annual operation license fee,  
2708 penalty, or interest.

2709 4. Notwithstanding the computational provisions of this  
2710 subsection, the annual operation license fee for any source  
2711 subject to this section may shall not be less than \$250, except  
2712 that the annual operation license fee for sources permitted  
2713 solely through general permits issued under s. 403.814 may shall  
2714 not exceed \$50 per year.

2715 5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes  
2716 ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air  
2717 pollution construction permit fees, the department may not  
2718 require such fees for changes or additions to a major source of  
2719 air pollution permitted pursuant to this section, unless the  
2720 activity triggers permitting requirements under Title I, Part C  
2721 or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-  
2722 7514a. Costs to issue and administer such permits shall be  
2723 considered direct and indirect costs of the major stationary



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2724 source air-operation permit program under s. 403.0873. The  
2725 department shall, however, require fees pursuant to s.  
2726 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the  
2727 construction of a new major source of air pollution that will be  
2728 subject to the permitting requirements of this section once  
2729 constructed and for activities triggering permitting  
2730 requirements under Title I, Part C or Part D, of the federal  
2731 Clean Air Act, 42 U.S.C. ss. 7470-7514a.

2732 Section 42. Paragraph (d) of subsection (3) of section  
2733 403.707, Florida Statutes, is amended to read:

2734 403.707 Permits.—  
2735 (3)

2736 (d) The department may adopt rules to administer this  
2737 subsection. However, the department is not required to submit  
2738 such rules to the Environmental Regulation Commission for  
2739 approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s.~~  
2740 ~~403.087(6)(a)~~, permit fee caps for solid waste management  
2741 facilities shall be prorated to reflect the extended permit term  
2742 authorized by this subsection.

2743 Section 43. Subsections (8) and (21) of section 403.861,  
2744 Florida Statutes, are amended to read:

2745 403.861 Department; powers and duties.—The department shall  
2746 have the power and the duty to carry out the provisions and  
2747 purposes of this act and, for this purpose, to:

2748 (8) Initiate rulemaking to increase each drinking water  
2749 permit application fee authorized under s. 403.087(7) ~~s.~~  
2750 ~~403.087(6)~~ and this part and adopted by rule to ensure that such  
2751 fees are increased to reflect, at a minimum, any upward  
2752 adjustment in the Consumer Price Index compiled by the United



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2753 States Department of Labor, or similar inflation indicator,  
2754 since the original fee was established or most recently revised.

2755 (a) The department shall establish by rule the inflation  
2756 index to be used for this purpose. The department shall review  
2757 the drinking water permit application fees authorized under s.  
2758 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5  
2759 years and shall adjust the fees upward, as necessary, within the  
2760 established fee caps to reflect changes in the Consumer Price  
2761 Index or similar inflation indicator. In the event of deflation,  
2762 the department shall consult with the Executive Office of the  
2763 Governor and the Legislature to determine whether downward fee  
2764 adjustments are appropriate based on the current budget and  
2765 appropriation considerations. The department shall also review  
2766 the drinking water operation license fees established pursuant  
2767 to paragraph (7)(b) at least once every 5 years to adopt, as  
2768 necessary, the same inflationary adjustments provided for in  
2769 this subsection.

2770 (b) The minimum fee amount shall be the minimum fee  
2771 prescribed in this section, and such fee amount shall remain in  
2772 effect until the effective date of fees adopted by rule by the  
2773 department.

2774 (21) (a) Upon issuance of a construction permit to construct  
2775 a new public water system drinking water treatment facility to  
2776 provide potable water supply using a surface water that, at the  
2777 time of the permit application, is not being used as a potable  
2778 water supply, and the classification of which does not include  
2779 potable water supply as a designated use, the department shall  
2780 add treated potable water supply as a designated use of the  
2781 surface water segment in accordance with s. 403.061(30)(b) ~~s.~~



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2782 ~~403.061(29)(b).~~

2783 (b) For existing public water system drinking water  
2784 treatment facilities that use a surface water as a treated  
2785 potable water supply, which surface water classification does  
2786 not include potable water supply as a designated use, the  
2787 department shall add treated potable water supply as a  
2788 designated use of the surface water segment in accordance with  
2789 s. 403.061(30)(b) ~~s. 403.061(29)(b).~~

2790 Section 44. Effective July 1, 2021, subsection (1) of  
2791 section 489.551, Florida Statutes, is amended to read:

2792 489.551 Definitions.—As used in this part:

2793 (1) "Department" means the Department of Environmental  
2794 Protection Health.

2795 Section 45. Paragraph (b) of subsection (10) of section  
2796 590.02, Florida Statutes, is amended to read:

2797 590.02 Florida Forest Service; powers, authority, and  
2798 duties; liability; building structures; Withlacoochee Training  
2799 Center.—

2800 (10)

2801 (b) The Florida Forest Service may delegate to a county,  
2802 municipality, or special district its authority:

2803 1. As delegated by the Department of Environmental  
2804 Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and  
2805 403.081, to manage and enforce regulations pertaining to the  
2806 burning of yard trash in accordance with s. 590.125(6).

2807 2. To manage the open burning of land clearing debris in  
2808 accordance with s. 590.125.

2809 Section 46. The Division of Law Revision is directed to  
2810 replace the phrase "adoption of the rules identified in



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2811 paragraph (e)" as it is used in the amendment made by this act  
2812 to s. 381.0065, Florida Statutes, with the date such rules are  
2813 adopted, as provided by the Department of Environmental  
2814 Protection pursuant to s. 381.0065(4)(e), Florida Statutes, as  
2815 amended by this act.

2816 Section 47. Except as otherwise expressly provided in this  
2817 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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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.	<u>Paglialonga/Rogers</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Reagan</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup> 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.

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<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

### *Blue-Green Algae Task Force*

In January of 2019, Governor DeSantis issued the comprehensive Executive Order Number 19-12.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water

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<sup>2</sup> U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Dec. 2, 2019).

<sup>3</sup> EPA, *The Problem*, <https://www.epa.gov/nutrientpollution/problem> (last visited Dec. 2, 2019).

<sup>4</sup> 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](https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf).

<sup>5</sup> *Id.* at 2; DEP, *Blue-Green Algae Task Force*, <https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force> (last visited Dec. 2, 2019).

<sup>6</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

### **Basin Management Action Plans and Best Management Practices**

The DEP is the lead agency in coordinating the development and implementation of TMDLs.<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup> 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.<sup>14</sup> BMAPs are adopted by secretarial order.<sup>15</sup>

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

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<sup>8</sup> Section 403.067(1), F.S.

<sup>9</sup> Section 403.031(21), F.S.

<sup>10</sup> 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.

<sup>11</sup> 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.

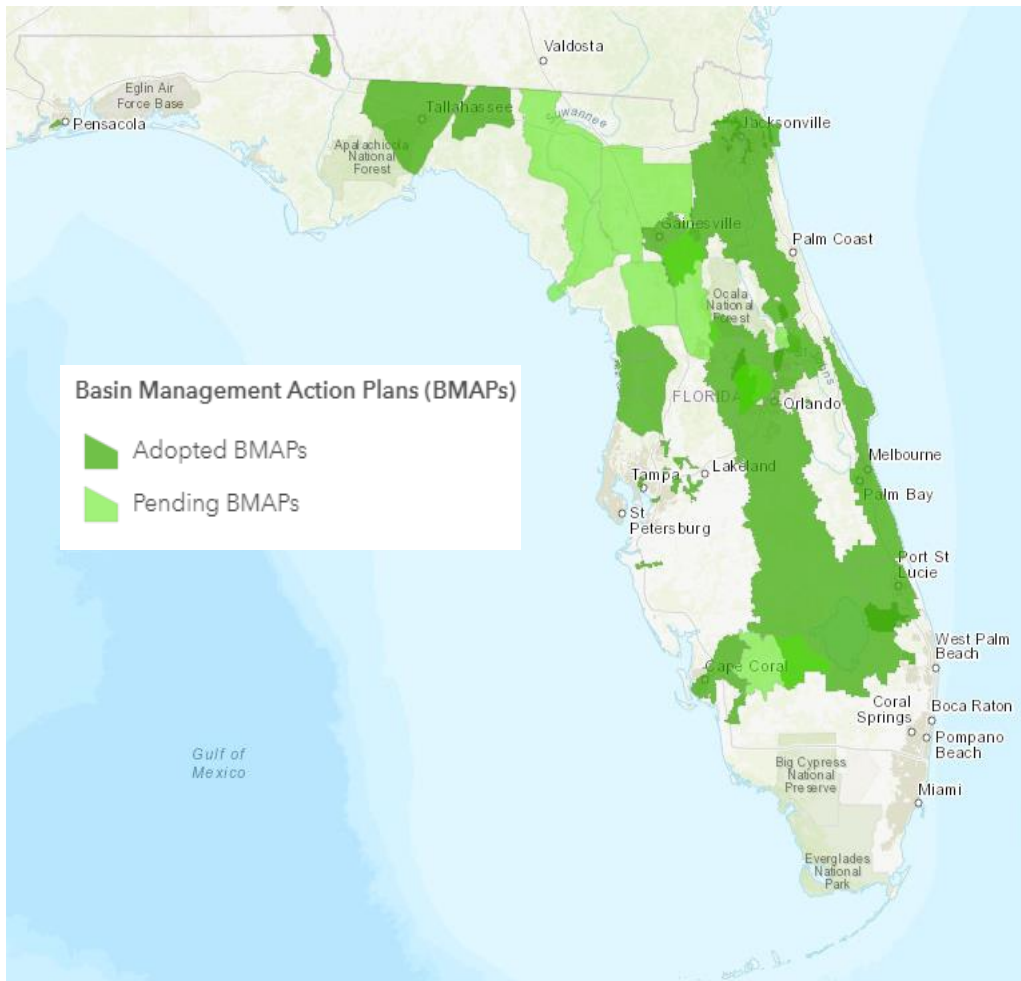
<sup>12</sup> Section 403.067(7), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Dec. 4, 2019).

<sup>15</sup> 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.<sup>16</sup>



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.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

<sup>16</sup> Section 403.067(7)(a)6., F.S.

<sup>17</sup> 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.

<sup>18</sup> Section 403.067(7)(b)2.h., F.S.

<sup>19</sup> 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.<sup>20</sup>

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.<sup>21</sup>

### ***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.<sup>22</sup> BMPs are implemented by the Department of Agriculture and Consumer Services (DACS). Since the BMP program was implemented in 1999,<sup>23</sup> 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.<sup>24</sup> Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs<sup>25</sup> 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.<sup>26</sup> Within a BMAP, management strategies, including BMPs and water quality monitoring, are enforceable.<sup>27</sup> The University of Florida's Institute of Food and

<sup>20</sup> 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).

<sup>21</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>22</sup> 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).

<sup>23</sup> 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.

<sup>24</sup> 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).

<sup>25</sup> Section 403.067(7), F.S.

<sup>26</sup> 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).

<sup>27</sup> 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,<sup>28</sup> conducts research to issue recommendations for improving BMPs,<sup>29</sup> and issues training certificates for BMPs that require licenses such as Green Industry BMPs.<sup>30</sup>

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.<sup>31</sup>

### **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.<sup>32</sup> 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;<sup>33</sup>
- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan<sup>34</sup> 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;<sup>35</sup> and
- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.<sup>36</sup>

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,

<sup>28</sup> UF/IFAS, *BMP Resource*, available at <https://bmp.ifas.ufl.edu/> (last visited Dec. 5, 2019).

<sup>29</sup> 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).

<sup>30</sup> UF/IFAS Florida-Friendly Landscaping, *GI-BMP Training Program Overview*, available at [https://ffl.ifas.ufl.edu/professionals/BMP\\_overview.htm](https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm) (last visited Dec. 5, 2019).

<sup>31</sup> *Id.*

<sup>32</sup> 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.

<sup>33</sup> Section 373.802(5), F.S.

<sup>34</sup> Commonly called a "septic remediation plan."

<sup>35</sup> Section 373.807, F.S.

<sup>36</sup> Section 373.811, F.S.

connection to a central sewerage system, or other action for a sewage system or group of systems.<sup>37</sup> The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.<sup>38</sup>

In June 2018, the DEP adopted 13 BMAPs, addressing all 24 nitrogen-impaired OFS.<sup>39</sup> Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAPs.<sup>40</sup> 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.<sup>41</sup>

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.<sup>42</sup> 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.<sup>43</sup>

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.<sup>44</sup> 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.<sup>45</sup> 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.<sup>46</sup>

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<sup>37</sup> Section 373.807(3), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> DEP, *Springs*, <https://floridadep.gov/springs> (last visited Nov. 26, 2019).

<sup>40</sup> *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.

<sup>41</sup> 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).

<sup>42</sup> Section 403.087, F.S.

<sup>43</sup> DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Dec. 2, 2019).

<sup>44</sup> 33 U.S.C. s. 1342.

<sup>45</sup> Sections 403.061 and 403.087, F.S.

<sup>46</sup> 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.<sup>47</sup> 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.<sup>48</sup>

### ***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.<sup>49</sup> 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.<sup>50</sup> The standard also requires high-level disinfection.<sup>51</sup>

<b>Nutrient or Contaminant</b>	<b>Maximum Concentration Annually</b>
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.<sup>52</sup> 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.<sup>53</sup>

<sup>47</sup> 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](https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf).

<sup>48</sup> *Id.*

<sup>49</sup> Section 403.086(2), F.S.

<sup>50</sup> Section 403.086(4), F.S.

<sup>51</sup> Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).

<sup>52</sup> 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.

<sup>53</sup> 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](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.<sup>54</sup> 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.<sup>55</sup> Each day during the period in which a violation occurs constitutes a separate offense.<sup>56</sup> However, administrative penalties are capped at \$10,000.<sup>57</sup>

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.<sup>58</sup>

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.<sup>59</sup>

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.<sup>60</sup> 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.<sup>61</sup> When domestic wastewater facilities are evaluated for permit renewal, collection systems are not evaluated for issues such as excessive

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<sup>54</sup> DEP, *Sanitary Sewer Overflows (SSOs)*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Dec. 4, 2019).

<sup>55</sup> Sections 403.121 and 403.141, F.S.

<sup>56</sup> *Id.*

<sup>57</sup> Section 403.121(2)(b), (8), and (9), F.S.

<sup>58</sup> DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf>.

<sup>59</sup> *Id.*

<sup>60</sup> City of St. Augustine, *Inflow & Infiltration Elimination Program*, <https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program> (last visited Dec. 6, 2019).

<sup>61</sup> 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%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2006%2017.pdf>.



infiltration/inflow unless problems result at the treatment plant.<sup>62</sup> 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.<sup>63</sup> Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.<sup>64</sup> All other pump stations must have emergency pumping capability through one of three specified arrangements.<sup>65</sup> 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.<sup>66</sup>

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.<sup>67</sup>

### ***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.<sup>68</sup> 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.<sup>69</sup>

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.<sup>70</sup> 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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<sup>62</sup> 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.”

<sup>63</sup> 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%20of%20SSO%20and%20Unpermitted%20Discharges%2001\\_06\\_17.pdf](https://floridadep.gov/sites/default/files/Final%20Report%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf).

<sup>64</sup> Fla. Admin. Code R. 62-604.400.

<sup>65</sup> *Id.*

<sup>66</sup> Fla. Admin. Code R. 62-604.100.

<sup>67</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>68</sup> 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).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

to fund these activities.<sup>71</sup> The United States Environmental Protection Agency (EPA) provides guidance and reference manuals for utilities to aid in developing asset management plans.<sup>72</sup>

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.<sup>73</sup> Florida's incentives include priority scoring,<sup>74</sup> reduction of interest rates,<sup>75</sup> principal forgiveness for financially disadvantaged small communities,<sup>76</sup> and eligibility for small community wastewater facilities grants.<sup>77</sup>

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.<sup>78</sup> 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.<sup>79</sup>

### **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.<sup>80</sup> 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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<sup>71</sup> *Id.*

<sup>72</sup> 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](https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf).

<sup>73</sup> 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](https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf).

<sup>74</sup> Fla. Admin. Code R. 62-503.300(e).

<sup>75</sup> Fla. Admin. Code R. 62-503.300(5)(b)1. and 62-503.700(7).

<sup>76</sup> Fla. Admin. Code R. 62-503.500(4).

<sup>77</sup> Fla. Admin. Code R. 62-505.300(d) and 62-505.350(5)(c).

<sup>78</sup> Fla. Admin. Code R. 25-30.444.

<sup>79</sup> Fla. Admin. Code R. 25-30.444(2)(e) and (m).

<sup>80</sup> 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.<sup>81</sup> 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.<sup>82</sup>

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

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<sup>81</sup> DEP, *State Revolving Fund*, <https://floridadep.gov/wra/srf> (last visited Feb. 11, 2019).

<sup>82</sup> 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.<sup>83</sup>

### **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.<sup>84</sup> Under the program, a financially disadvantaged small community is defined as a county, municipality, or special district<sup>85</sup> with a total population of 10,000 or less, and a per capita income less than the state average per capita income.<sup>86</sup> 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.<sup>87</sup>

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.<sup>88</sup> 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, permissible, 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.<sup>89</sup>

### ***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.<sup>90</sup> Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where

<sup>83</sup> Section 403.1835(7), F.S.

<sup>84</sup> Sections 403.1835(3)(d) and 403.1838, F.S.

<sup>85</sup> 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.

<sup>86</sup> Section 403.1838(2), F.S.

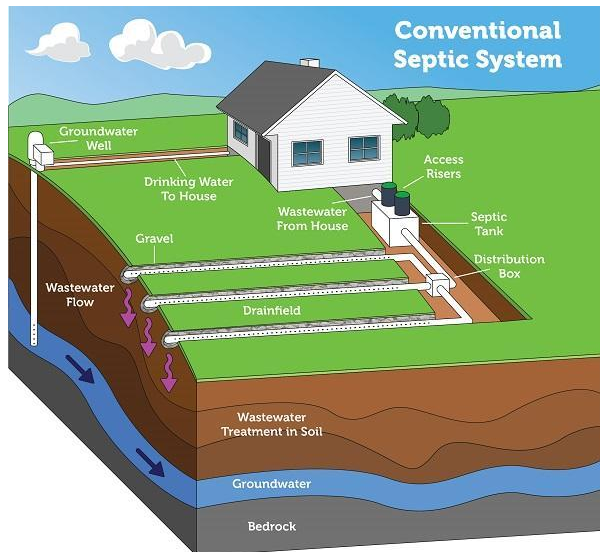
<sup>87</sup> Chapter 2016-55, Laws of Fla.

<sup>88</sup> Section 403.1838(3)(a), F.S.

<sup>89</sup> Section 403.1838(3)(b), F.S.; Fla. Admin. Code R. Ch. 62-505.

<sup>90</sup> 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.<sup>91</sup>



Please note: Septic systems vary. Diagram is not to scale.

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.<sup>92</sup> The DOH regulations focus on construction standards and setback distances. The regulations are primarily designed to protect the public from waterborne illnesses.<sup>93</sup> 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.<sup>94</sup>

The DOH and the DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.<sup>95</sup> 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).<sup>96</sup> In all other circumstances, the DOH regulates OSTDSs.

<sup>91</sup> *Id.*

<sup>92</sup> Section 381.0065(3), F.S.

<sup>93</sup> DOH, *Overview of Onsite Sewage Treatment and Disposal Systems*, 5 (Aug. 1, 2019), <http://floridadep.gov/file/19018/download?token=6r94Bi2B>.

<sup>94</sup> Section 381.0065(3), F.S.

<sup>95</sup> *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](https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf).

<sup>96</sup> *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.<sup>97</sup> In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.<sup>98</sup> 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.<sup>99</sup> The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.<sup>100</sup>

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.<sup>101</sup> This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.<sup>102</sup>

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).<sup>103</sup> The DOH publishes on its website approved products and resources on advanced systems.<sup>104</sup> 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.<sup>105</sup> Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.<sup>106</sup>

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.

<sup>97</sup> DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Dec. 2, 2019).

<sup>98</sup> 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.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> 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).

<sup>102</sup> 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/pdf/SS/SS55000.pdf>.

<sup>103</sup> 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>.

<sup>104</sup> 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).

<sup>105</sup> Section 381.00655, F.S.

<sup>106</sup> *Id.*

- Additional funding to accelerate septic to sewer conversions.<sup>107</sup>

### ***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.<sup>108</sup> 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.<sup>109</sup>

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.<sup>110</sup>

### **Stormwater Management**

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.<sup>111</sup> When stormwater falls on pavement, buildings, and other impermeable surfaces, the runoff flows

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<sup>107</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>108</sup> Section 381.0068, F.S.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> 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/Applicant\\_Hanbook\\_I\\_-\\_Combined.pdf](https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf).

quickly and can pick up sediment, nutrients (such as nitrogen and phosphorous), chemicals, and other pollutants.<sup>112</sup> Stormwater pollution is a major source of water pollution in Florida.<sup>113</sup>

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<sup>114</sup> and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.<sup>115</sup> The federal NPDES Stormwater Program regulates the following types of stormwater pollution:<sup>116</sup>

- Certain municipal storm sewer systems;
- Runoff from certain construction activities; and
- Runoff from industrial activities.<sup>117</sup>

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.<sup>118</sup> ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.<sup>119</sup> 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.<sup>120</sup>

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;<sup>121</sup> and
- For the maintenance or operation of such structures.<sup>122</sup>

<sup>112</sup> DEP, *Stormwater Management*, 1 (2016), available at [https://floridadep.gov/sites/default/files/stormwater-management\\_0.pdf](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.

<sup>113</sup> 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>.

<sup>114</sup> National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.

<sup>115</sup> Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

<sup>116</sup> 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](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>.

<sup>117</sup> See generally EPA, *NPDES Stormwater Program*, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Dec. 2, 2019).

<sup>118</sup> DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Dec 2, 2019).

<sup>119</sup> 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).

<sup>120</sup> 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.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant\\_Hanbook\\_I\\_-\\_Combined.pdf](https://www.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.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).

<sup>121</sup> Section 373.413, F.S.; see s. 403.814(12), F.S.

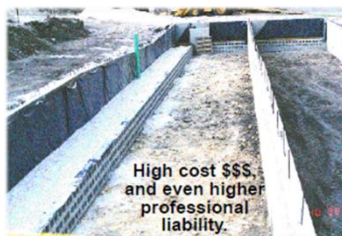
<sup>122</sup> Section 373.416, F.S.



The DEP’s stormwater rules are technology-based effluent limitations rather than water quality-based effluent limitations.<sup>123</sup> 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.<sup>124</sup> 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.<sup>125</sup> 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.<sup>126</sup> The images shown here depict six major types of surface water management systems:<sup>127</sup>



**“Filtered” Ponds**



**Underground Vaults**



**“Dry” Retention Ponds**



**“Wet” Detention Ponds**



**Underground Exfiltration Trenches**



**Pervious Pavement**

<sup>123</sup> DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Nov. 8, 2019).

<sup>124</sup> See generally, EPA, National Pollutant Discharge Elimination System (NPDES), [www.epa.gov/npdes/npdes-permit-limits](http://www.epa.gov/npdes/npdes-permit-limits) (last visited Dec. 2, 2019).

<sup>125</sup> Fla. Admin. Code R. 62-40.432(2).

<sup>126</sup> 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.

<sup>127</sup> 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.<sup>128</sup> 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.<sup>129</sup> 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.<sup>130</sup> 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.<sup>131</sup>

### ***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.<sup>132</sup> 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.<sup>133</sup> 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."<sup>134</sup>

These rulemaking efforts produced a draft document called the "Environmental Resource Permit Stormwater Quality Applicant's Handbook: Design Requirements for Stormwater Treatment in Florida."<sup>135</sup> The 2010 draft handbook's stormwater quality permitting requirements:

- Provided for different stormwater treatment performance standards based on various classifications of water quality.<sup>136</sup>

<sup>128</sup> 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.

<sup>129</sup> 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").

<sup>130</sup> Section 373.4131(3)(c), F.S.

<sup>131</sup> Section 373.414(1)(b)3., F.S.

<sup>132</sup> 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](https://www.sfwmd.gov/sites/default/files/documents/spl_stormwater_rule.pdf).

<sup>133</sup> 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>.

<sup>134</sup> *Id.*

<sup>135</sup> 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](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content2/roadway/drainage/files/stormwaterqualityapphb-draft.pdf?sfvrsn=579bf184_0).

<sup>136</sup> *Id.* at 6-7.

- Included instructions for calculating a project's required nutrient load reduction based on comparing the predevelopment and post-development loadings.<sup>137</sup>
- Provided the required criteria for stormwater BMPs.
- Listed fifteen different types of stormwater treatment systems, including low impact design, pervious pavements, and stormwater harvesting.<sup>138</sup>

The new rule and revised handbook were expected to be adopted in 2011.<sup>139</sup> 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.<sup>140</sup>

### **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.<sup>141</sup>

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.<sup>142</sup> 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.<sup>143</sup>

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<sup>137</sup> *Id.* at 8-11.

<sup>138</sup> *Id.* at 3.

<sup>139</sup> 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).

<sup>140</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>141</sup> DEP, *Water Quality Assessment Program*, <https://floridadep.gov/dear/water-quality-assessment> (last visited Dec. 2, 2019).

<sup>142</sup> DEP, *Watershed Monitoring*, <https://floridadep.gov/dear/watershed-monitoring-section> (last visited Dec. 2, 2019).

<sup>143</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

## Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary<sup>144</sup> that runs along 156 miles of Florida's east coast and borders Volusia, Brevard, Indian River, St. Lucie, and Martin counties.<sup>145</sup> The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.<sup>146</sup> Four BMAPs have been adopted for the IRL region.<sup>147</sup>

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.<sup>148</sup> The estimated economic value received from the IRL in 2014 was approximately \$7.6 billion.<sup>149</sup> Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.<sup>150</sup>

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.<sup>151</sup> 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.<sup>152</sup>

## 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

<sup>144</sup> 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).

<sup>145</sup> IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

<sup>146</sup> *Id.*

<sup>147</sup> 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](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).

<sup>148</sup> IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

<sup>149</sup> 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](http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf).

<sup>150</sup> *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.

<sup>151</sup> 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>.

<sup>152</sup> *Id.*

segregated funds must be made in such a manner that the relation between the program and the revenue source is retained.<sup>153</sup>

### **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.<sup>154</sup> 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.<sup>155</sup>

The currently designated RAOs are:<sup>156</sup>

- 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).<sup>157</sup> 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.<sup>158</sup>

### **Biosolids**

Approximately two-thirds of Florida's population is served by around 2,000 domestic wastewater facilities permitted by the DEP.<sup>159</sup> When domestic wastewater is treated, solid,

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<sup>153</sup> Section 20.06(2), F.S.

<sup>154</sup> Section 288.0656(2)(d), F.S.

<sup>155</sup> Section 288.0656(7), F.S.

<sup>156</sup> 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).

<sup>157</sup> Section 120.541, F.S.

<sup>158</sup> *Id.*

<sup>159</sup> 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<sup>160</sup> accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.<sup>161</sup> Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the DEP.<sup>162</sup> The collected residue is high in organic content and contains moderate amounts of nutrients.<sup>163</sup>

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.<sup>164</sup> 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.<sup>165</sup> About one-third of the total amount of biosolids produced is used for land application<sup>166</sup> and is subject to regulatory requirements established by the DEP to protect public health and the environment.<sup>167</sup>

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.<sup>168</sup> 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.<sup>169</sup> 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.<sup>170</sup> There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.<sup>171</sup>

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<sup>160</sup> 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.

<sup>161</sup> DEP, *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Dec. 9, 2019).

<sup>162</sup> Fla. Admin. Code R. 62-640.200(6).

<sup>163</sup> *Id.*

<sup>164</sup> 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](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).

<sup>165</sup> *Id.* at 4.

<sup>166</sup> *Id.* at 5.

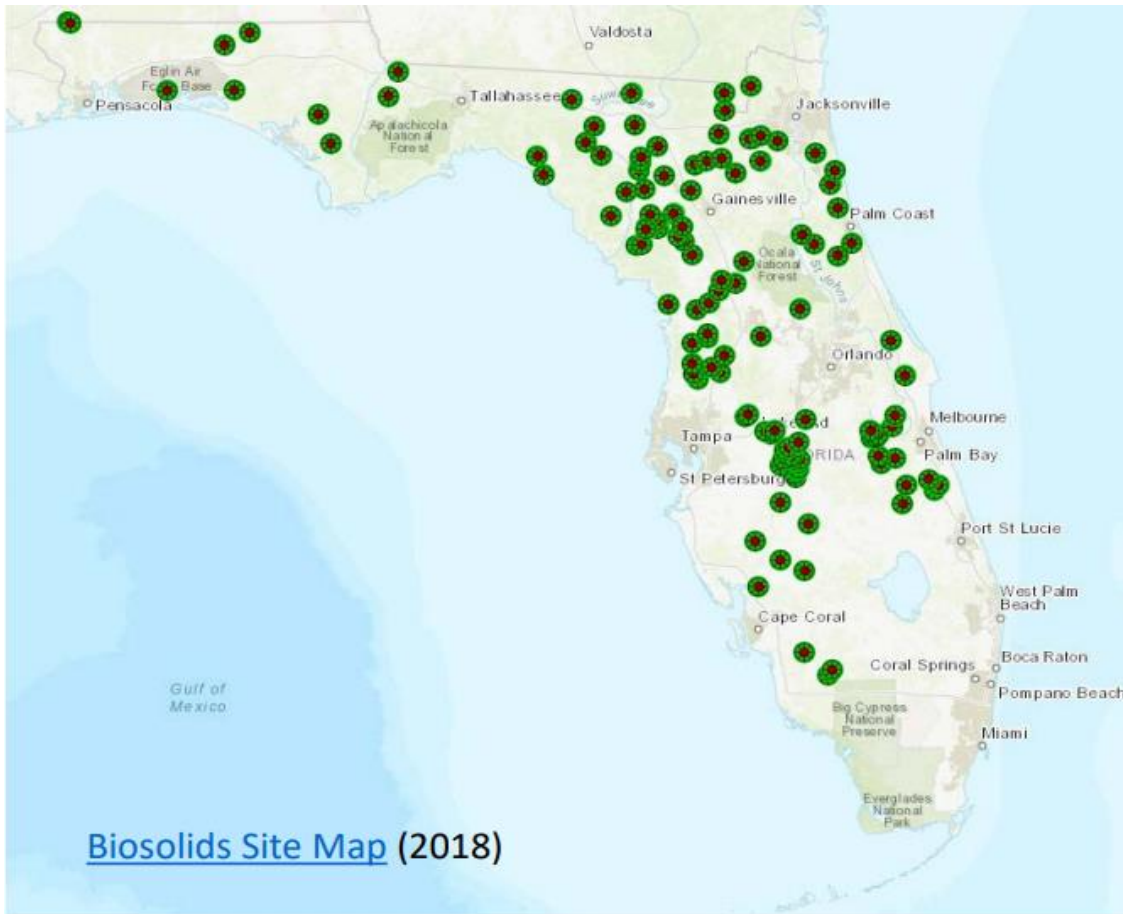
<sup>167</sup> Fla. Admin. Code R. 62-640.

<sup>168</sup> 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).

<sup>169</sup> *Id.* at 20.

<sup>170</sup> *Id.* at 9.

<sup>171</sup> 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](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.<sup>172</sup>

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.<sup>173</sup>

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<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.

<sup>172</sup> *Id.* at 6.

<sup>173</sup> *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.<sup>174</sup> Typically, Class B biosolids are used in land application.<sup>175</sup>

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, applicators, and distributors<sup>176</sup> and include permit requirements for both treatment facilities and biosolids application sites.<sup>177</sup>

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.<sup>178</sup> Biosolids may only be applied to land application sites that are permitted by the DEP and have a valid NMP.<sup>179</sup> 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.<sup>180</sup> 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.<sup>181</sup>

Once a facility or site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.<sup>182</sup> 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.<sup>183</sup>

### ***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

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<sup>174</sup> *Id.* at 8.

<sup>175</sup> *Id.* at 6.

<sup>176</sup> Fla. Admin. Code R. 62-640.100.

<sup>177</sup> Fla. Admin. Code R. 62-640.300.

<sup>178</sup> Fla. Admin. Code R. 62-640.500.

<sup>179</sup> *Id.*

<sup>180</sup> Fla. Admin. Code R. 62-640.700.

<sup>181</sup> 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](http://archives.waterinstitute.ufl.edu/symposium2018/abstract_detail.asp?AssignmentID=1719) (last visited Mar. 8, 2019).

<sup>182</sup> Fla. Admin. Code R. 62-640.650.

<sup>183</sup> *Id.*



loadings in the watershed.<sup>184</sup> 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.<sup>185</sup>

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.<sup>186</sup> 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.<sup>187</sup>

### ***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.<sup>188</sup> 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.<sup>189</sup> The County Commission voted in January 2019 to extend the moratorium for an additional six months.<sup>190</sup>

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.<sup>191</sup> In January 2019, the ordinance was extended for an additional 180 days.<sup>192</sup>

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.<sup>193</sup> 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.<sup>194</sup> It also encouraged

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<sup>184</sup> Chapter 2016-1, Laws of Florida; *see s. 373.4595, F.S.*

<sup>185</sup> *Id.*

<sup>186</sup> Section 373.811(4), F.S.

<sup>187</sup> *Id.*

<sup>188</sup> 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](http://ircgov.granicus.com/player/clip/183?view_id=1&meta_id=64650) (last visited Dec. 9, 2019).

<sup>189</sup> *Id.*

<sup>190</sup> 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](http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302) (last visited Dec. 9, 2019).

<sup>191</sup> Fellsmere City Council Meeting, *Agenda* (Aug. 16, 2018), *available at* [https://www.cityoffellsmere.org/sites/default/files/fileattachments/city\\_council/meeting/8301/co20180816agenda.pdf](https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/8301/co20180816agenda.pdf).

<sup>192</sup> Fellsmere City Council Meeting, *Agenda* (Feb. 7, 2019), *available at* [https://www.cityoffellsmere.org/sites/default/files/fileattachments/city\\_council/meeting/14391/co20190221agenda.pdf](https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf).

<sup>193</sup> 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>.

<sup>194</sup> 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.<sup>195</sup>

### ***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.<sup>196</sup>

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.<sup>197</sup>

Based on recommendations of the TAC and public input, the DEP published a draft rule on October 29, 2019.<sup>198</sup> 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,<sup>199</sup> meaning that a permit applicant must publish notice of their application one time only within fourteen days after a complete application is filed.<sup>200</sup>
- 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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<sup>195</sup> *Id.*

<sup>196</sup> 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.

<sup>197</sup> DEP, *DEP Biosolids Technical Advisory Committee*, <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> (last visited Mar. 6, 2019).

<sup>198</sup> 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](https://www.flrules.org/gateway/View_Notice.asp?id=22546212) (last visited Dec. 5, 2019).

<sup>199</sup> Note: the draft rule uses the phrase “public interest” but the rule cross-referenced in the draft rule uses the phrase “public concern.”

<sup>200</sup> 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.<sup>201</sup> 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.<sup>202</sup>

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

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<sup>201</sup> 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](https://content.govdelivery.com/attachments/FLDEP/2019/10/29/file_attachments/1313532/62-640%20SERC.pdf).

<sup>202</sup> *Id.*

- Additional monitoring costs of \$1 million.<sup>203</sup>

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.<sup>204</sup> The DEP is currently reviewing lower cost regulatory alternatives that have been submitted.<sup>205</sup> The next step will be a hearing before the Environmental Regulation Commission and adoption of the rule. Following rule adoption, legislative ratification is required.<sup>206</sup>

### *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.<sup>207</sup> Civil actions and administrative proceedings have different procedures.<sup>208</sup> 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.<sup>209</sup>

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.<sup>210</sup>

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.

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> Email from Justin Wolfe, General Counsel, DEP, RE: Biosolids Rule (Dec. 2. 2019)(on file with the Environment and Natural Resources Committee).

<sup>206</sup> Section 120.541(3), F.S.

<sup>207</sup> Section 403.121, F.S.

<sup>208</sup> Sections 403.121 and 403.141, F.S.

<sup>209</sup> Section 403.121, F.S.

<sup>210</sup> *Id.*

- \$5,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation.<sup>211</sup>  
A court or an administrative law judge may receive evidence in mitigation.<sup>212</sup> The DEP may also seek injunctive relief either judicially or administratively.<sup>213</sup> Additionally, criminal penalties are available for various types of violations of chapter 403, F.S.<sup>214</sup>

### 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.<sup>215</sup> “It is the recognition that our ecosystems – including trees, oceans, animals, and mountains – have rights just as human beings have rights.”<sup>216</sup>

Standing is a party’s right to make a legal claim or seek judicial enforcement of a duty or right.<sup>217</sup> 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.<sup>218</sup> 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.<sup>219</sup>

Ecuador includes a Rights of Nature provision in its constitution.<sup>220</sup> Under the Ecuadorian constitution, nature has rights “to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.”<sup>221</sup> Bolivia, New Zealand, India,<sup>222</sup> and Colombia<sup>223</sup> 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,

<sup>211</sup> Section 403.121(3)(b), F.S.

<sup>212</sup> Section 403.121(3)(b), F.S.

<sup>213</sup> Section 403.121.(3)(b), F.S

<sup>214</sup> Section 403.161, F.S.

<sup>215</sup> 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).

<sup>216</sup> *Id.*

<sup>217</sup> BLACK’S LAW DICTIONARY, 1536 (9th ed. 2009).

<sup>218</sup> *Id.*

<sup>219</sup> 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); *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310 (2010)).

<sup>220</sup> Constitución Política de la República del Ecuador, art. 10, 71-74 (Ecuador), English translation available at <http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>.

<sup>221</sup> *Id.*

<sup>222</sup> See generally, Gwendolyn J. Gordon, *Environmental Personhood*, 50, 43 COLUM. J. ENVTL. L. 49 (Jan. 11, 2019).

<sup>223</sup> 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.”<sup>224</sup> Based on this constitutional provision, a court overturned a Pennsylvania law protecting extractive interests from local ordinances to limit environmentally harmful activities.<sup>225</sup> Local governments in Pennsylvania,<sup>226</sup> Maine,<sup>227</sup> New Hampshire,<sup>228</sup> and California,<sup>229</sup> 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.<sup>230</sup>

### **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.<sup>231</sup> 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.<sup>232</sup> 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.<sup>233</sup>

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.<sup>234</sup> Private citizens of Florida may institute a suit under the Act without showing of special injury required by traditional rules of standing.<sup>235</sup> 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

<sup>224</sup>PA. CONST. art. 1, § 27

<sup>225</sup> *Robinson v. Commonwealth*, 83 A.3d 901 (2013).

<sup>226</sup> See City of Pittsburgh Code of Ordinances, § 618.03.

<sup>227</sup> Town of Shapleigh Code, §99-16.

<sup>228</sup> Barrington, NH, Community Bill of Rights §2(e), available at [https://www.barrington.nh.gov/sites/barringtonnh/files/uploads/bill\\_of\\_rights.pdf](https://www.barrington.nh.gov/sites/barringtonnh/files/uploads/bill_of_rights.pdf).

<sup>229</sup> Santa Monica Municipal Code, Ch. 12.02.030.

<sup>230</sup> 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).

<sup>231</sup> Section 403.412(2)(a), F.S.

<sup>232</sup> Section 403.412(5), F.S.

<sup>233</sup> *Id.*

<sup>234</sup> 390 So.2d 64 (Fla. 1980).

<sup>235</sup> *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.<sup>236</sup>

### Regulation of Bottled Water

The U.S. Food and Drug Administration regulates the bottled water industry for safety and water quality.<sup>237</sup> 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.<sup>238</sup> A "bottled water plant" is an establishment in which bottled water is prepared for sale.<sup>239</sup> In Florida, the regulation of bottled water plants is preempted to the state.<sup>240</sup> The DACS Division of Food Safety regulates bottling, labeling, and handling at bottled water plants.<sup>241</sup> The DACS requires bottled water plants to obtain a food permit, which must be renewed annually.<sup>242</sup>

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.<sup>243</sup> Bottled water must be processed in conformance with the applicable federal regulations.<sup>244</sup> It must conform to specific federal standards for water quality, label statements, and adulteration.<sup>245</sup> 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.<sup>246</sup> The person operating the bottled water plant is responsible for all water sampling and analysis.<sup>247</sup>

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<sup>236</sup> *Id.*

<sup>237</sup> 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).

<sup>238</sup> 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."

<sup>239</sup> Section 500.03(1)(e), (n), and (p), F.S.

<sup>240</sup> 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.

<sup>241</sup> 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).

<sup>242</sup> 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.

<sup>243</sup> 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."

<sup>244</sup> Section 500.147(3), F.S.; 21 C.F.R. pt. 129.

<sup>245</sup> 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).

<sup>246</sup> Section 500.11(1)(o), F.S.

<sup>247</sup> 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.<sup>248</sup> 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.<sup>249</sup> 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.<sup>250</sup> This authority is primarily delegated to the WMDs, which implement extensive CUP programs within their respective jurisdictions.<sup>251</sup> To obtain a CUP, an applicant must establish that the proposed use of water:

- Is a reasonable-beneficial use;<sup>252</sup>
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.<sup>253</sup>

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.<sup>254</sup> 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.<sup>255</sup> The WMDs have different schedules for application processing fees, which can vary based on total requested withdrawal amounts or type of application.<sup>256</sup> 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.<sup>257</sup>

<sup>248</sup> Fla. Admin. Code R. 62-40.210(4).

<sup>249</sup> Chapter 373, part II, F.S.

<sup>250</sup> Section 373.219, F.S. No permit is required for domestic consumption of water by individual users.

<sup>251</sup> Section 373.216, F.S.; Fla Admin. Code Chapters 40A-2, 40B-2, 40C-2, 40D-2, and 40E-2.

<sup>252</sup> 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.

<sup>253</sup> Section 373.223, F.S.; see s. 373.229, F.S. Permit applications must contain certain specified information.

<sup>254</sup> 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](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.pdf](https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/WUP_Applicants_Handbook_Part_B.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 *NFWWMD WUP Handbook*], available at [https://www.nfwwater.com/content/download/8605/71075/Applicant\\_Handbook\\_201504.pdf](https://www.nfwwater.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](https://www.flrules.org/gateway/readRefFile.asp?refId=11315&filename=REFERENCE%20MATERIAL_WUP%20Applicant%27s%20Handbook%20FINAL%2010-31-2019.pdf).

<sup>255</sup> 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/pdf/FE/FE60400.pdf>; The water management districts' respective rules contain various exemptions from CUP permitting, such as for firefighting purposes.

<sup>256</sup> See s. 373.109, F.S.

<sup>257</sup> Section 373.236, F.S.



The WMDs are required to include appropriate monitoring efforts as part of their CUP programs.<sup>258</sup> 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.<sup>259</sup> Such monitoring must be at intervals and must use methods determined by the applicable WMD.<sup>260</sup> The results of such monitoring must be reported to the applicable WMD at least annually.<sup>261</sup> 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.<sup>262</sup> 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.<sup>263</sup> The DEP and the WMDs are required to establish MFLs based on priority lists for surface water courses, aquifers, and surface waters.<sup>264</sup> 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.<sup>265</sup>

### **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.<sup>266</sup>

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.<sup>267</sup>
- The annual five year capital improvements plan.<sup>268</sup>
- The alternative water supplies annual report.<sup>269</sup>

<sup>258</sup> Section 373.216, F.S.

<sup>259</sup> 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.

<sup>260</sup> *Id.*

<sup>261</sup> *Id.*

<sup>262</sup> *SFWMD WUP Handbook*, at 93-98; *SWFWMD WUP Handbook*, at 70-71, 76-92; *SJRWMD CUP Handbook*, at 4-1-4-3; *NFWMD WUP Handbook*, at 63-64; *SRWMD WUP Handbook*, at 43-44, 50.

<sup>263</sup> Section 373.042, F.S.

<sup>264</sup> Sections 373.042 and 373.0421, F.S.; Fla. Admin. Code R. 62-40.473.

<sup>265</sup> *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).

<sup>266</sup> Section 373.036(7)(a), F.S.

<sup>267</sup> Section 373.042(3), F.S.

<sup>268</sup> Section 373.536(6)(a)3., F.S.

<sup>269</sup> Section 373.707(8)(n), F.S.

- The final annual five year water resource development work program.<sup>270</sup>
- The Florida Forever Water Management District Work Plan annual report.<sup>271</sup>
- The mitigation donation annual report.<sup>272</sup>

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.<sup>273</sup>

### **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.<sup>274</sup> The secretary must be confirmed by the Florida Senate and serves at the pleasure of the Governor.<sup>275</sup>

### **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

<sup>270</sup> Section 373.536(6)(a)4., F.S.

<sup>271</sup> Section 373.199, F.S.

<sup>272</sup> Section 373.414(1)(b)2., F.S.

<sup>273</sup> Section 373.036(7)(b)8.a.-f., F.S.

<sup>274</sup> Section 20.255, F.S.

<sup>275</sup> *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.*<sup>276</sup>

**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.*<sup>277</sup>

**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.

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<sup>276</sup> Section 120.541, F.S.

<sup>277</sup> *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.*<sup>278</sup>

**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

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<sup>278</sup> *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 by the 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.*<sup>279</sup>

**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

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<sup>279</sup> *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.<sup>280</sup>*

**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:

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<sup>280</sup> *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

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1 A bill to be entitled  
 2 An act relating to water quality improvements;  
 3 providing a short title; requiring the Department  
 4 Health to provide a specified report to the Governor  
 5 and the Legislature by a specified date; requiring the  
 6 Department of Health and the Department of  
 7 Environmental Protection to submit to the Governor and  
 8 the Legislature, by a specified date, certain  
 9 recommendations relating to the transfer of the Onsite  
 10 Sewage Program; requiring the departments to enter  
 11 into an interagency agreement that meets certain  
 12 requirements by a specified date; transferring the  
 13 Onsite Sewage Program within the Department of Health  
 14 to the Department of Environmental Protection by a  
 15 type two transfer by a specified date; providing that  
 16 certain employees retain and transfer certain types of  
 17 leave upon the transfer; amending s. 373.4131, F.S.;  
 18 requiring the Department of Environmental Protection  
 19 to include stormwater structural controls inspections  
 20 as part of its regular staff training; requiring the  
 21 department and the water management districts to adopt  
 22 rules regarding stormwater design and operation by a  
 23 specified date; amending s. 381.0065, F.S.; conforming  
 24 provisions to changes made by the act; requiring the  
 25 department to adopt rules for the location of onsite  
 26 sewage treatment and disposal systems and complete  
 27 such rulemaking by a specified date; requiring the  
 28 department to evaluate certain data relating to the  
 29 self-certification program and provide the Legislature

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30 with recommendations by a specified date; providing  
 31 that certain provisions relating to existing setback  
 32 requirements are applicable to permits only until the  
 33 adoption of certain rules by the department; creating  
 34 s. 381.00652, F.S.; creating an onsite sewage  
 35 treatment and disposal systems technical advisory  
 36 committee within the department; providing the duties  
 37 and membership of the committee; requiring the  
 38 committee to submit a report to the Governor and the  
 39 Legislature by a specified date; providing for the  
 40 expiration of the committee; repealing s. 381.0068,  
 41 F.S., relating to a technical review and advisory  
 42 panel; amending s. 403.061, F.S.; requiring the  
 43 department to adopt rules relating to the underground  
 44 pipes of wastewater collection systems; requiring  
 45 public utilities or their affiliated companies that  
 46 hold or are seeking a wastewater discharge permit to  
 47 file certain reports and data with the department;  
 48 creating s. 403.0616, F.S.; requiring the department,  
 49 subject to legislative appropriation, to establish a  
 50 real-time water quality monitoring program;  
 51 encouraging the formation of public-private  
 52 partnerships; amending s. 403.067, F.S.; requiring  
 53 basin management action plans for nutrient total  
 54 maximum daily loads to include wastewater treatment  
 55 and onsite sewage treatment and disposal system  
 56 remediation plans that meet certain requirements;  
 57 requiring the Department of Agriculture and Consumer  
 58 Services to collect fertilization and nutrient records

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59 from certain agricultural producers and provide the  
 60 information to the department annually by a specified  
 61 date; requiring the Department of Agriculture and  
 62 Consumer Services to perform onsite inspections of the  
 63 agricultural producers at specified intervals;  
 64 authorizing certain entities to develop research plans  
 65 and legislative budget requests relating to best  
 66 management practices by a specified date; creating s.  
 67 403.0673, F.S.; establishing a wastewater grant  
 68 program within the Department of Environmental  
 69 Protection; authorizing the department to distribute  
 70 appropriated funds for certain projects; providing  
 71 requirements for the distribution; requiring the  
 72 department to coordinate with each water management  
 73 district to identify grant recipients; requiring an  
 74 annual report to the Governor and the Legislature by a  
 75 specified date; creating s. 403.0855, F.S.; providing  
 76 legislative findings regarding the regulation of  
 77 biosolids management in this state; requiring the  
 78 department to adopt rules for biosolids management;  
 79 exempting the rules from a specified statutory  
 80 requirement; amending s. 403.086, F.S.; prohibiting  
 81 facilities for sanitary sewage disposal from disposing  
 82 of any waste in the Indian River Lagoon beginning on a  
 83 specified date without first providing advanced waste  
 84 treatment; requiring facilities for sanitary sewage  
 85 disposal to have a power outage contingency plan;  
 86 requiring the facilities to take steps to prevent  
 87 overflows and leaks and ensure that the water reaches

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88 the appropriate facility for treatment; requiring the  
 89 facilities to provide the Department of Environmental  
 90 Protection with certain information; requiring the  
 91 department to adopt rules; amending s. 403.087, F.S.;  
 92 requiring the department to issue operation permits  
 93 for domestic wastewater treatment facilities to  
 94 certain facilities under certain circumstances;  
 95 amending s. 403.088, F.S.; revising the permit  
 96 conditions for a water pollution operation permit;  
 97 requiring the department to submit a report to the  
 98 Governor and the Legislature by a specified date  
 99 identifying all wastewater utilities that experienced  
 100 sanitary sewer overflows within a specified timeframe;  
 101 amending s. 403.0891, F.S.; requiring model stormwater  
 102 management programs to contain model ordinances for  
 103 nutrient reduction practices and green infrastructure;  
 104 amending s. 403.121, F.S.; providing civil penalties;  
 105 amending s. 403.885, F.S.; requiring the department to  
 106 give certain domestic wastewater utilities funding  
 107 priority within the Water Projects Grant Program;  
 108 providing a declaration of important state interest;  
 109 amending ss. 153.54, 153.73, 163.3180, 180.03,  
 110 311.105, 327.46, 373.250, 373.414, 373.705, 373.707,  
 111 373.709, 376.307, 380.0552, 381.006, 381.0061,  
 112 381.0064, 381.00651, 403.08601, 403.0871, 403.0872,  
 113 403.1835, 403.707, 403.861, 489.551, and 590.02, F.S.;  
 114 conforming cross-references and provisions to changes  
 115 made by the act; providing a directive to the Division  
 116 of Law Revision upon the adoption of certain rules by

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117 the Department of Environmental Protection; providing  
118 effective dates.

119  
120 WHEREAS, nutrients negatively impact groundwater and  
121 surface waters in this state and cause the proliferation of  
122 algal blooms, and

123 WHEREAS, onsite sewage treatment and disposal systems were  
124 designed to manage human waste and are permitted by the  
125 Department of Health for that purpose, and

126 WHEREAS, conventional onsite sewage treatment and disposal  
127 systems contribute nutrients to groundwater and surface waters  
128 across this state which can cause harmful blue-green algal  
129 blooms, and

130 WHEREAS, many stormwater systems are designed primarily to  
131 divert and control stormwater rather than to remove pollutants,  
132 and

133 WHEREAS, most existing stormwater system design criteria  
134 fail to consistently meet either the 80 percent or 95 percent  
135 target pollutant reduction goals established by the Department  
136 of Environmental Protection, and

137 WHEREAS, other significant pollutants often can be removed  
138 from stormwater more easily than nutrients and, as a result,  
139 design criteria that provide the desired removal efficiencies  
140 for nutrients will likely achieve equal or better removal  
141 efficiencies for other constituents, and

142 WHEREAS, the Department of Environmental Protection has  
143 found that the major causes of sanitary sewer overflows during  
144 storm events are infiltration, inflow, and acute power failures,  
145 and

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146 WHEREAS, the Department of Environmental Protection lacks  
147 statutory authority to regulate infiltration and inflow or to  
148 require that all lift stations constructed prior to 2003 have  
149 emergency backup power, and

150 WHEREAS, sanitary sewer overflows and leaking  
151 infrastructure create both a human health concern and a nutrient  
152 pollution problem, and

153 WHEREAS, the agricultural sector is a significant  
154 contributor to the excess delivery of nutrients to surface  
155 waters throughout this state and has been identified as the  
156 dominant source of both phosphorus and nitrogen within the Lake  
157 Okeechobee watershed and a number of other basin management  
158 action plan areas, and

159 WHEREAS, only 75 percent of eligible agricultural parties  
160 within the Lake Okeechobee Basin Management Action Plan area are  
161 enrolled in an appropriate best management practice and  
162 enrollment numbers are considerably less in other basin  
163 management action plan areas, and

164 WHEREAS, although agricultural best management practices,  
165 by design, should be technically feasible and economically  
166 viable, that does not imply that their adoption and full  
167 implementation, alone, will alleviate downstream water quality  
168 impairments, NOW, THEREFORE,

169  
170 Be It Enacted by the Legislature of the State of Florida:

171

172 Section 1. This act may be cited as the "Clean Waterways  
173 Act."

174 Section 2. (1) By July 1, 2020, the Department of Health

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175 must provide a report to the Governor, the President of the  
 176 Senate, and the Speaker of the House of Representatives  
 177 detailing the following information regarding the Onsite Sewage  
 178 Program:

- 179 (a) The average number of permits issued each year;  
 180 (b) The number of department employees conducting work on  
 181 or related to the program each year; and  
 182 (c) The program's costs and expenditures, including, but  
 183 not limited to, salaries and benefits, equipment costs, and  
 184 contracting costs.

185 (2) By December 31, 2020, the Department of Health and the  
 186 Department of Environmental Protection shall submit  
 187 recommendations to the Governor, the President of the Senate,  
 188 and the Speaker of the House of Representatives regarding the  
 189 transfer of the Onsite Sewage Program from the Department of  
 190 Health to the Department of Environmental Protection. The  
 191 recommendations must address all aspects of the transfer,  
 192 including the continued role of the county health departments in  
 193 the permitting, inspection, data management, and tracking of  
 194 onsite sewage treatment and disposal systems under the direction  
 195 of the Department of Environmental Protection.

196 (3) By June 30, 2021, the Department of Health and the  
 197 Department of Environmental Protection shall enter into an  
 198 interagency agreement based on the Department of Health report  
 199 required under subsection (2) and on recommendations from a plan  
 200 that must address all agency cooperation for a period not less  
 201 than 5 years after the transfer, including:

- 202 (a) The continued role of the county health departments in  
 203 the permitting, inspection, data management, and tracking of

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204 onsite sewage treatment and disposal systems under the direction  
 205 of the Department of Environmental Protection.

206 (b) The appropriate proportionate number of administrative,  
 207 auditing, inspector general, attorney, and operational support  
 208 positions, and their related funding levels and sources and  
 209 assigned property, to be transferred from the Office of General  
 210 Counsel, the Office of Inspector General, and the Division of  
 211 Administrative Services or other relevant offices or divisions  
 212 within the Department of Health to the Department of  
 213 Environmental Protection.

214 (c) The development of a recommended plan to address the  
 215 transfer or shared use of buildings, regional offices, and other  
 216 facilities used or owned by the Department of Health.

217 (d) Any operating budget adjustments that are necessary to  
 218 implement the requirements of this act. Adjustments made to the  
 219 operating budgets of the agencies in the implementation of this  
 220 act must be made in consultation with the appropriate  
 221 substantive and fiscal committees of the Senate and the House of  
 222 Representatives. The revisions to the approved operating budgets  
 223 for the 2021-2022 fiscal year which are necessary to reflect the  
 224 organizational changes made by this act must be implemented  
 225 pursuant to s. 216.292(4) (d), Florida Statutes, and are subject  
 226 to s. 216.177, Florida Statutes. Subsequent adjustments between  
 227 the Department of Health and the Department of Environmental  
 228 Protection which are determined necessary by the respective  
 229 agencies and approved by the Executive Office of the Governor  
 230 are authorized and subject to s. 216.177, Florida Statutes. The  
 231 appropriate substantive committees of the Senate and the House  
 232 of Representatives must also be notified of the proposed

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233 revisions to ensure their consistency with legislative policy  
 234 and intent.

235 (4) Effective July 1, 2021, all powers, duties, functions,  
 236 records, offices, personnel, associated administrative support  
 237 positions, property, pending issues, existing contracts,  
 238 administrative authority, administrative rules, and unexpended  
 239 balances of appropriations, allocations, and other funds for the  
 240 regulation of onsite sewage treatment and disposal systems  
 241 relating to the Onsite Sewage Program in the Department of  
 242 Health are transferred by a type two transfer, as defined in s.  
 243 20.06(2), Florida Statutes, to the Department of Environmental  
 244 Protection.

245 (5) Notwithstanding chapter 60L-34, Florida Administrative  
 246 Code, or any law to the contrary, employees who are transferred  
 247 from the Department of Health to the Department of Environmental  
 248 Protection to fill positions transferred by this act retain and  
 249 transfer any accrued annual leave, sick leave, and regular and  
 250 special compensatory leave balances.

251 Section 3. Subsection (5) of section 373.4131, Florida  
 252 Statutes, is amended, and subsection (6) is added to that  
 253 section, to read:

254 373.4131 Statewide environmental resource permitting  
 255 rules.—

256 (5) To ensure consistent implementation and interpretation  
 257 of the rules adopted pursuant to this section, the department  
 258 shall conduct or oversee regular assessment and training of its  
 259 staff and the staffs of the water management districts and local  
 260 governments delegated local pollution control program authority  
 261 under s. 373.441. The training must include coordinating field

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262 inspections of publicly and privately owned stormwater  
 263 structural controls, such as stormwater retention or detention  
 264 ponds.

265 (6) By January 1, 2021:

266 (a) The department and the water management districts shall  
 267 initiate rulemaking to update the stormwater design and  
 268 operation regulations using the most recent scientific  
 269 information available; and

270 (b) The department shall evaluate inspection data relating  
 271 to compliance by those entities that self-certify under s.  
 272 403.814(12) and provide the Legislature with recommendations for  
 273 improvements to the self-certification program.

274 Section 4. Effective July 1, 2021, present paragraphs (d)  
 275 through (g) of subsection (2) of section 381.0065, Florida  
 276 Statutes, are redesignated as paragraphs (e) through (r),  
 277 respectively, a new paragraph (d) is added to that subsection,  
 278 and subsections (3) and (4) of that section are amended, to  
 279 read:

280 381.0065 Onsite sewage treatment and disposal systems;  
 281 regulation.—

282 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the  
 283 term:

284 (d) "Department" means the Department of Environmental  
 285 Protection.

286 (3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The  
 287 department shall:

288 (a) Adopt rules to administer ss. 381.0065-381.0067,  
 289 including definitions that are consistent with the definitions  
 290 in this section, ~~decreases to setback requirements where no~~

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291 ~~health hazard exists~~, increases for the lot-flow allowance for  
 292 performance-based systems, requirements for separation from  
 293 water table elevation during the wettest season, requirements  
 294 for the design and construction of any component part of an  
 295 onsite sewage treatment and disposal system, application and  
 296 permit requirements for persons who maintain an onsite sewage  
 297 treatment and disposal system, requirements for maintenance and  
 298 service agreements for aerobic treatment units and performance-  
 299 based treatment systems, and recommended standards, including  
 300 disclosure requirements, for voluntary system inspections to be  
 301 performed by individuals who are authorized by law to perform  
 302 such inspections and who shall inform a person having ownership,  
 303 control, or use of an onsite sewage treatment and disposal  
 304 system of the inspection standards and of that person's  
 305 authority to request an inspection based on all or part of the  
 306 standards.

307 (b) Perform application reviews and site evaluations, issue  
 308 permits, and conduct inspections and complaint investigations  
 309 associated with the construction, installation, maintenance,  
 310 modification, abandonment, operation, use, or repair of an  
 311 onsite sewage treatment and disposal system for a residence or  
 312 establishment with an estimated domestic sewage flow of 10,000  
 313 gallons or less per day, or an estimated commercial sewage flow  
 314 of 5,000 gallons or less per day, which is not currently  
 315 regulated under chapter 403.

316 (c) Develop a comprehensive program to ensure that onsite  
 317 sewage treatment and disposal systems regulated by the  
 318 department are sized, designed, constructed, installed, sited,  
 319 repaired, modified, abandoned, used, operated, and maintained in

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320 compliance with this section and rules adopted under this  
 321 section to prevent groundwater contamination, including impacts  
 322 from nutrient pollution, and surface water contamination and to  
 323 preserve the public health. The department is the final  
 324 administrative interpretive authority regarding rule  
 325 interpretation. In the event of a conflict regarding rule  
 326 interpretation, the secretary of the department ~~State Surgeon~~  
 327 ~~General~~, or his or her designee, shall timely assign a staff  
 328 person to resolve the dispute.

329 (d) Grant variances in hardship cases under the conditions  
 330 prescribed in this section and rules adopted under this section.

331 (e) Permit the use of a limited number of innovative  
 332 systems for a specific period of time, when there is compelling  
 333 evidence that the system will function properly and reliably to  
 334 meet the requirements of this section and rules adopted under  
 335 this section.

336 (f) Issue annual operating permits under this section.

337 (g) Establish and collect fees as established under s.  
 338 381.0066 for services provided with respect to onsite sewage  
 339 treatment and disposal systems.

340 (h) Conduct enforcement activities, including imposing  
 341 fines, issuing citations, suspensions, revocations, injunctions,  
 342 and emergency orders for violations of this section, part I of  
 343 chapter 386, or part III of chapter 489 or for a violation of  
 344 any rule adopted under this section, part I of chapter 386, or  
 345 part III of chapter 489.

346 (i) Provide or conduct education and training of department  
 347 personnel, service providers, and the public regarding onsite  
 348 sewage treatment and disposal systems.

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349 (j) Supervise research on, demonstration of, and training  
 350 on the performance, environmental impact, and public health  
 351 impact of onsite sewage treatment and disposal systems within  
 352 this state. Research fees collected under s. 381.0066(2)(k) must  
 353 be used to develop and fund hands-on training centers designed  
 354 to provide practical information about onsite sewage treatment  
 355 and disposal systems to septic tank contractors, master septic  
 356 tank contractors, contractors, inspectors, engineers, and the  
 357 public and must also be used to fund research projects which  
 358 focus on improvements of onsite sewage treatment and disposal  
 359 systems, including use of performance-based standards and  
 360 reduction of environmental impact. Research projects shall be  
 361 initially approved by the technical review and advisory panel  
 362 and shall be applicable to and reflect the soil conditions  
 363 specific to Florida. Such projects shall be awarded through  
 364 competitive negotiation, using the procedures provided in s.  
 365 287.055, to public or private entities that have experience in  
 366 onsite sewage treatment and disposal systems in Florida and that  
 367 are principally located in Florida. Research projects may ~~shall~~  
 368 not be awarded to firms or entities that employ or are  
 369 associated with persons who serve on either the technical review  
 370 and advisory panel or the research review and advisory  
 371 committee.

372 (k) Approve the installation of individual graywater  
 373 disposal systems in which blackwater is treated by a central  
 374 sewerage system.

375 (l) Regulate and permit the sanitation, handling,  
 376 treatment, storage, reuse, and disposal of byproducts from any  
 377 system regulated under this chapter and not regulated by the

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378 Department of Environmental Protection.

379 (m) Permit and inspect portable or temporary toilet  
 380 services and holding tanks. The department shall review  
 381 applications, perform site evaluations, and issue permits for  
 382 the temporary use of holding tanks, privies, portable toilet  
 383 services, or any other toilet facility that is intended for use  
 384 on a permanent or nonpermanent basis, including facilities  
 385 placed on construction sites when workers are present. The  
 386 department may specify standards for the construction,  
 387 maintenance, use, and operation of any such facility for  
 388 temporary use.

389 (n) Regulate and permit maintenance entities for  
 390 performance-based treatment systems and aerobic treatment unit  
 391 systems. To ensure systems are maintained and operated according  
 392 to manufacturer's specifications and designs, the department  
 393 shall establish by rule minimum qualifying criteria for  
 394 maintenance entities. The criteria shall include: training,  
 395 access to approved spare parts and components, access to  
 396 manufacturer's maintenance and operation manuals, and service  
 397 response time. The maintenance entity shall employ a contractor  
 398 licensed under s. 489.105(3)(m), or part III of chapter 489, or  
 399 a state-licensed wastewater plant operator, who is responsible  
 400 for maintenance and repair of all systems under contract.

401 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not  
 402 construct, repair, modify, abandon, or operate an onsite sewage  
 403 treatment and disposal system without first obtaining a permit  
 404 approved by the department. The department may issue permits to  
 405 carry out this section, ~~but shall not make the issuance of such~~  
 406 ~~permits contingent upon prior approval by the Department of~~

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407 ~~Environmental Protection, except that~~ The issuance of a permit  
 408 for work seaward of the coastal construction control line  
 409 established under s. 161.053 shall be contingent upon receipt of  
 410 any required coastal construction control line permit from the  
 411 department ~~of Environmental Protection~~. A construction permit is  
 412 valid for 18 months from the issuance date and may be extended  
 413 by the department for one 90-day period under rules adopted by  
 414 the department. A repair permit is valid for 90 days from the  
 415 date of issuance. An operating permit must be obtained before  
 416 ~~prior to~~ the use of any aerobic treatment unit or if the  
 417 establishment generates commercial waste. Buildings or  
 418 establishments that use an aerobic treatment unit or generate  
 419 commercial waste shall be inspected by the department at least  
 420 annually to assure compliance with the terms of the operating  
 421 permit. The operating permit for a commercial wastewater system  
 422 is valid for 1 year from the date of issuance and must be  
 423 renewed annually. The operating permit for an aerobic treatment  
 424 unit is valid for 2 years from the date of issuance and must be  
 425 renewed every 2 years. If all information pertaining to the  
 426 siting, location, and installation conditions or repair of an  
 427 onsite sewage treatment and disposal system remains the same, a  
 428 construction or repair permit for the onsite sewage treatment  
 429 and disposal system may be transferred to another person, if the  
 430 transferee files, within 60 days after the transfer of  
 431 ownership, an amended application providing all corrected  
 432 information and proof of ownership of the property. There is no  
 433 fee associated with the processing of this supplemental  
 434 information. A person may not contract to construct, modify,  
 435 alter, repair, service, abandon, or maintain any portion of an

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436 onsite sewage treatment and disposal system without being  
 437 registered under part III of chapter 489. A property owner who  
 438 personally performs construction, maintenance, or repairs to a  
 439 system serving his or her own owner-occupied single-family  
 440 residence is exempt from registration requirements for  
 441 performing such construction, maintenance, or repairs on that  
 442 residence, but is subject to all permitting requirements. A  
 443 municipality or political subdivision of the state may not issue  
 444 a building or plumbing permit for any building that requires the  
 445 use of an onsite sewage treatment and disposal system unless the  
 446 owner or builder has received a construction permit for such  
 447 system from the department. A building or structure may not be  
 448 occupied and a municipality, political subdivision, or any state  
 449 or federal agency may not authorize occupancy until the  
 450 department approves the final installation of the onsite sewage  
 451 treatment and disposal system. A municipality or political  
 452 subdivision of the state may not approve any change in occupancy  
 453 or tenancy of a building that uses an onsite sewage treatment  
 454 and disposal system until the department has reviewed the use of  
 455 the system with the proposed change, approved the change, and  
 456 amended the operating permit.

457 (a) Subdivisions and lots in which each lot has a minimum  
 458 area of at least one-half acre and either a minimum dimension of  
 459 100 feet or a mean of at least 100 feet of the side bordering  
 460 the street and the distance formed by a line parallel to the  
 461 side bordering the street drawn between the two most distant  
 462 points of the remainder of the lot may be developed with a water  
 463 system regulated under s. 381.0062 and onsite sewage treatment  
 464 and disposal systems, provided the projected daily sewage flow

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465 does not exceed an average of 1,500 gallons per acre per day,  
 466 and provided satisfactory drinking water can be obtained and all  
 467 distance and setback, soil condition, water table elevation, and  
 468 other related requirements of this section and rules adopted  
 469 under this section can be met.

470 (b) Subdivisions and lots using a public water system as  
 471 defined in s. 403.852 may use onsite sewage treatment and  
 472 disposal systems, provided there are no more than four lots per  
 473 acre, provided the projected daily sewage flow does not exceed  
 474 an average of 2,500 gallons per acre per day, and provided that  
 475 all distance and setback, soil condition, water table elevation,  
 476 and other related requirements that are generally applicable to  
 477 the use of onsite sewage treatment and disposal systems are met.

478 (c) Notwithstanding paragraphs (a) and (b), for  
 479 subdivisions platted of record on or before October 1, 1991,  
 480 when a developer or other appropriate entity has previously made  
 481 or makes provisions, including financial assurances or other  
 482 commitments, acceptable to the Department of Health, that a  
 483 central water system will be installed by a regulated public  
 484 utility based on a density formula, private potable wells may be  
 485 used with onsite sewage treatment and disposal systems until the  
 486 agreed-upon densities are reached. In a subdivision regulated by  
 487 this paragraph, the average daily sewage flow may not exceed  
 488 2,500 gallons per acre per day. This section does not affect the  
 489 validity of existing prior agreements. After October 1, 1991,  
 490 the exception provided under this paragraph is not available to  
 491 a developer or other appropriate entity.

492 (d) Paragraphs (a) and (b) do not apply to any proposed  
 493 residential subdivision with more than 50 lots or to any

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494 proposed commercial subdivision with more than 5 lots where a  
 495 publicly owned or investor-owned sewerage system is available.  
 496 It is the intent of this paragraph not to allow development of  
 497 additional proposed subdivisions in order to evade the  
 498 requirements of this paragraph.

499 (e) The department shall adopt rules to locate onsite  
 500 sewage treatment and disposal systems, including establishing  
 501 setback distances, to prevent groundwater contamination and  
 502 surface water contamination and to preserve the public health.  
 503 The rulemaking process for such rules must be completed by July  
 504 1, 2022, and the department shall notify the Division of Law  
 505 Revision of the date such rules are adopted. The rules must  
 506 consider conventional and advanced onsite sewage treatment and  
 507 disposal system designs, impaired or degraded water bodies,  
 508 wastewater and drinking water infrastructure, potable water  
 509 sources, nonpotable wells, stormwater infrastructure, the onsite  
 510 sewage treatment and disposal system remediation plans developed  
 511 pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the  
 512 recommendations of the onsite sewage treatment and disposal  
 513 systems technical advisory committee established pursuant to s.  
 514 381.00652.

515 (f)-(e) Onsite sewage treatment and disposal systems that  
 516 are permitted before adoption of the rules identified in  
 517 paragraph (e) may ~~not~~ not be placed closer than:

- 518 1. Seventy-five feet from a private potable well.
- 519 2. Two hundred feet from a public potable well serving a  
 520 residential or nonresidential establishment having a total  
 521 sewage flow of greater than 2,000 gallons per day.
- 522 3. One hundred feet from a public potable well serving a

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523 residential or nonresidential establishment having a total  
 524 sewage flow of less than or equal to 2,000 gallons per day.

525 4. Fifty feet from any nonpotable well.

526 5. Ten feet from any storm sewer pipe, to the maximum  
 527 extent possible, but in no instance shall the setback be less  
 528 than 5 feet.

529 6. Seventy-five feet from the mean high-water line of a  
 530 tidally influenced surface water body.

531 7. Seventy-five feet from the mean annual flood line of a  
 532 permanent nontidal surface water body.

533 8. Fifteen feet from the design high-water line of  
 534 retention areas, detention areas, or swales designed to contain  
 535 standing or flowing water for less than 72 hours after a  
 536 rainfall or the design high-water level of normally dry drainage  
 537 ditches or normally dry individual lot stormwater retention  
 538 areas.

539 ~~(f) Except as provided under paragraphs (c) and (t), no~~  
 540 ~~limitations shall be imposed by rule, relating to the distance~~  
 541 ~~between an onsite disposal system and any area that either~~  
 542 ~~permanently or temporarily has visible surface water.~~

543 (g) All provisions of this section and rules adopted under  
 544 this section relating to soil condition, water table elevation,  
 545 distance, and other setback requirements must be equally applied  
 546 to all lots, with the following exceptions:

547 1. Any residential lot that was platted and recorded on or  
 548 after January 1, 1972, or that is part of a residential  
 549 subdivision that was approved by the appropriate permitting  
 550 agency on or after January 1, 1972, and that was eligible for an  
 551 onsite sewage treatment and disposal system construction permit

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552 on the date of such platting and recording or approval shall be  
 553 eligible for an onsite sewage treatment and disposal system  
 554 construction permit, regardless of when the application for a  
 555 permit is made. If rules in effect at the time the permit  
 556 application is filed cannot be met, residential lots platted and  
 557 recorded or approved on or after January 1, 1972, shall, to the  
 558 maximum extent possible, comply with the rules in effect at the  
 559 time the permit application is filed. At a minimum, however,  
 560 those residential lots platted and recorded or approved on or  
 561 after January 1, 1972, but before January 1, 1983, shall comply  
 562 with those rules in effect on January 1, 1983, and those  
 563 residential lots platted and recorded or approved on or after  
 564 January 1, 1983, shall comply with those rules in effect at the  
 565 time of such platting and recording or approval. In determining  
 566 the maximum extent of compliance with current rules that is  
 567 possible, the department shall allow structures and  
 568 appurtenances thereto which were authorized at the time such  
 569 lots were platted and recorded or approved.

570 2. Lots platted before 1972 are subject to a 50-foot  
 571 minimum surface water setback and are not subject to lot size  
 572 requirements. The projected daily flow for onsite sewage  
 573 treatment and disposal systems for lots platted before 1972 may  
 574 not exceed:

575 a. Two thousand five hundred gallons per acre per day for  
 576 lots served by public water systems as defined in s. 403.852.

577 b. One thousand five hundred gallons per acre per day for  
 578 lots served by water systems regulated under s. 381.0062.

579 (h)1. The department may grant variances in hardship cases  
 580 which may be less restrictive than ~~the provisions~~ specified in

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581 this section. If a variance is granted and the onsite sewage  
 582 treatment and disposal system construction permit has been  
 583 issued, the variance may be transferred with the system  
 584 construction permit, if the transferee files, within 60 days  
 585 after the transfer of ownership, an amended construction permit  
 586 application providing all corrected information and proof of  
 587 ownership of the property and if the same variance would have  
 588 been required for the new owner of the property as was  
 589 originally granted to the original applicant for the variance.  
 590 There is no fee associated with the processing of this  
 591 supplemental information. A variance may not be granted under  
 592 this section until the department is satisfied that:

593 a. The hardship was not caused intentionally by the action  
 594 of the applicant;

595 b. No reasonable alternative, taking into consideration  
 596 factors such as cost, exists for the treatment of the sewage;  
 597 and

598 c. The discharge from the onsite sewage treatment and  
 599 disposal system will not adversely affect the health of the  
 600 applicant or the public or significantly degrade the groundwater  
 601 or surface waters.

602

603 Where soil conditions, water table elevation, and setback  
 604 provisions are determined by the department to be satisfactory,  
 605 special consideration must be given to those lots platted before  
 606 1972.

607 2. The department shall appoint and staff a variance review  
 608 and advisory committee, which shall meet monthly to recommend  
 609 agency action on variance requests. The committee shall make its

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610 recommendations on variance requests at the meeting in which the  
 611 application is scheduled for consideration, except for an  
 612 extraordinary change in circumstances, the receipt of new  
 613 information that raises new issues, or when the applicant  
 614 requests an extension. The committee shall consider the criteria  
 615 in subparagraph 1. in its recommended agency action on variance  
 616 requests and shall also strive to allow property owners the full  
 617 use of their land where possible. The committee consists of the  
 618 following:

619 a. The Secretary of Environmental Protection State Surgeon  
 620 ~~General~~ or his or her designee.

621 b. A representative from the county health departments.

622 c. A representative from the home building industry  
 623 recommended by the Florida Home Builders Association.

624 d. A representative from the septic tank industry  
 625 recommended by the Florida Onsite Wastewater Association.

626 e. A representative from the Department of Health  
 627 ~~Environmental Protection~~.

628 f. A representative from the real estate industry who is  
 629 also a developer in this state who develops lots using onsite  
 630 sewage treatment and disposal systems, recommended by the  
 631 Florida Association of Realtors.

632 g. A representative from the engineering profession  
 633 recommended by the Florida Engineering Society.

634

635 Members shall be appointed for a term of 3 years, with such  
 636 appointments being staggered so that the terms of no more than  
 637 two members expire in any one year. Members shall serve without  
 638 remuneration, but if requested, shall be reimbursed for per diem

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639 and travel expenses as provided in s. 112.061.

640 (i) A construction permit may not be issued for an onsite  
641 sewage treatment and disposal system in any area zoned or used  
642 for industrial or manufacturing purposes, or its equivalent,  
643 where a publicly owned or investor-owned sewage treatment system  
644 is available, or where a likelihood exists that the system will  
645 receive toxic, hazardous, or industrial waste. An existing  
646 onsite sewage treatment and disposal system may be repaired if a  
647 publicly owned or investor-owned sewerage system is not  
648 available within 500 feet of the building sewer stub-out and if  
649 system construction and operation standards can be met. This  
650 paragraph does not require publicly owned or investor-owned  
651 sewerage treatment systems to accept anything other than  
652 domestic wastewater.

653 1. A building located in an area zoned or used for  
654 industrial or manufacturing purposes, or its equivalent, when  
655 such building is served by an onsite sewage treatment and  
656 disposal system, must not be occupied until the owner or tenant  
657 has obtained written approval from the department. The  
658 department may ~~shall~~ not grant approval when the proposed use of  
659 the system is to dispose of toxic, hazardous, or industrial  
660 wastewater or toxic or hazardous chemicals.

661 2. Each person who owns or operates a business or facility  
662 in an area zoned or used for industrial or manufacturing  
663 purposes, or its equivalent, or who owns or operates a business  
664 that has the potential to generate toxic, hazardous, or  
665 industrial wastewater or toxic or hazardous chemicals, and uses  
666 an onsite sewage treatment and disposal system that is installed  
667 on or after July 5, 1989, must obtain an annual system operating

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668 permit from the department. A person who owns or operates a  
669 business that uses an onsite sewage treatment and disposal  
670 system that was installed and approved before July 5, 1989, need  
671 not obtain a system operating permit. However, upon change of  
672 ownership or tenancy, the new owner or operator must notify the  
673 department of the change, and the new owner or operator must  
674 obtain an annual system operating permit, regardless of the date  
675 that the system was installed or approved.

676 3. The department shall periodically review and evaluate  
677 the continued use of onsite sewage treatment and disposal  
678 systems in areas zoned or used for industrial or manufacturing  
679 purposes, or its equivalent, and may require the collection and  
680 analyses of samples from within and around such systems. If the  
681 department finds that toxic or hazardous chemicals or toxic,  
682 hazardous, or industrial wastewater have been or are being  
683 disposed of through an onsite sewage treatment and disposal  
684 system, the department shall initiate enforcement actions  
685 against the owner or tenant to ensure adequate cleanup,  
686 treatment, and disposal.

687 (j) An onsite sewage treatment and disposal system designed  
688 by a professional engineer registered in the state and certified  
689 by such engineer as complying with performance criteria adopted  
690 by the department must be approved by the department subject to  
691 the following:

692 1. The performance criteria applicable to engineer-designed  
693 systems must be limited to those necessary to ensure that such  
694 systems do not adversely affect the public health or  
695 significantly degrade the groundwater or surface water. Such  
696 performance criteria shall include consideration of the quality

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697 of system effluent, the proposed total sewage flow per acre,  
 698 wastewater treatment capabilities of the natural or replaced  
 699 soil, water quality classification of the potential surface-  
 700 water-receiving body, and the structural and maintenance  
 701 viability of the system for the treatment of domestic  
 702 wastewater. However, performance criteria shall address only the  
 703 performance of a system and not a system's design.

704 2. A person electing to utilize an engineer-designed system  
 705 shall, upon completion of the system design, submit such design,  
 706 certified by a registered professional engineer, to the county  
 707 health department. The county health department may utilize an  
 708 outside consultant to review the engineer-designed system, with  
 709 the actual cost of such review to be borne by the applicant.  
 710 Within 5 working days after receiving an engineer-designed  
 711 system permit application, the county health department shall  
 712 request additional information if the application is not  
 713 complete. Within 15 working days after receiving a complete  
 714 application for an engineer-designed system, the county health  
 715 department either shall issue the permit or, if it determines  
 716 that the system does not comply with the performance criteria,  
 717 shall notify the applicant of that determination and refer the  
 718 application to the department for a determination as to whether  
 719 the system should be approved, disapproved, or approved with  
 720 modification. The department engineer's determination shall  
 721 prevail over the action of the county health department. The  
 722 applicant shall be notified in writing of the department's  
 723 determination and of the applicant's rights to pursue a variance  
 724 or seek review under ~~the provisions of~~ chapter 120.

725 3. The owner of an engineer-designed performance-based

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726 system must maintain a current maintenance service agreement  
 727 with a maintenance entity permitted by the department. The  
 728 maintenance entity shall inspect each system at least twice each  
 729 year and shall report quarterly to the department on the number  
 730 of systems inspected and serviced. The reports may be submitted  
 731 electronically.

732 4. The property owner of an owner-occupied, single-family  
 733 residence may be approved and permitted by the department as a  
 734 maintenance entity for his or her own performance-based  
 735 treatment system upon written certification from the system  
 736 manufacturer's approved representative that the property owner  
 737 has received training on the proper installation and service of  
 738 the system. The maintenance service agreement must conspicuously  
 739 disclose that the property owner has the right to maintain his  
 740 or her own system and is exempt from contractor registration  
 741 requirements for performing construction, maintenance, or  
 742 repairs on the system but is subject to all permitting  
 743 requirements.

744 5. The property owner shall obtain a biennial system  
 745 operating permit from the department for each system. The  
 746 department shall inspect the system at least annually, or on  
 747 such periodic basis as the fee collected permits, and may  
 748 collect system-effluent samples if appropriate to determine  
 749 compliance with the performance criteria. The fee for the  
 750 biennial operating permit shall be collected beginning with the  
 751 second year of system operation.

752 6. If an engineer-designed system fails to properly  
 753 function or fails to meet performance standards, the system  
 754 shall be re-engineered, if necessary, to bring the system into

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755 compliance with ~~the provisions of~~ this section.

756 (k) An innovative system may be approved in conjunction  
757 with an engineer-designed site-specific system which is  
758 certified by the engineer to meet the performance-based criteria  
759 adopted by the department.

760 (l) For the Florida Keys, the department shall adopt a  
761 special rule for the construction, installation, modification,  
762 operation, repair, maintenance, and performance of onsite sewage  
763 treatment and disposal systems which considers the unique soil  
764 conditions and water table elevations, densities, and setback  
765 requirements. On lots where a setback distance of 75 feet from  
766 surface waters, saltmarsh, and buttonwood association habitat  
767 areas cannot be met, an injection well, approved and permitted  
768 by the department, may be used for disposal of effluent from  
769 onsite sewage treatment and disposal systems. The following  
770 additional requirements apply to onsite sewage treatment and  
771 disposal systems in Monroe County:

772 1. The county, each municipality, and those special  
773 districts established for the purpose of the collection,  
774 transmission, treatment, or disposal of sewage shall ensure, in  
775 accordance with the specific schedules adopted by the  
776 Administration Commission under s. 380.0552, the completion of  
777 onsite sewage treatment and disposal system upgrades to meet the  
778 requirements of this paragraph.

779 2. Onsite sewage treatment and disposal systems must cease  
780 discharge by December 31, 2015, or must comply with department  
781 rules and provide the level of treatment which, on a permitted  
782 annual average basis, produces an effluent that contains no more  
783 than the following concentrations:

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784 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

785 b. Suspended Solids of 10 mg/l.

786 c. Total Nitrogen, expressed as N, of 10 mg/l or a  
787 reduction in nitrogen of at least 70 percent. A system that has  
788 been tested and certified to reduce nitrogen concentrations by  
789 at least 70 percent shall be deemed to be in compliance with  
790 this standard.

791 d. Total Phosphorus, expressed as P, of 1 mg/l.

792  
793 In addition, onsite sewage treatment and disposal systems  
794 discharging to an injection well must provide basic disinfection  
795 as defined by department rule.

796 3. In areas not scheduled to be served by a central sewer,  
797 onsite sewage treatment and disposal systems must, by December  
798 31, 2015, comply with department rules and provide the level of  
799 treatment described in subparagraph 2.

800 4. In areas scheduled to be served by central sewer by  
801 December 31, 2015, if the property owner has paid a connection  
802 fee or assessment for connection to the central sewer system,  
803 the property owner may install a holding tank with a high water  
804 alarm or an onsite sewage treatment and disposal system that  
805 meets the following minimum standards:

806 a. The existing tanks must be pumped and inspected and  
807 certified as being watertight and free of defects in accordance  
808 with department rule; and

809 b. A sand-lined drainfield or injection well in accordance  
810 with department rule must be installed.

811 5. Onsite sewage treatment and disposal systems must be  
812 monitored for total nitrogen and total phosphorus concentrations

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813 as required by department rule.

814 6. The department shall enforce proper installation,  
815 operation, and maintenance of onsite sewage treatment and  
816 disposal systems pursuant to this chapter, including ensuring  
817 that the appropriate level of treatment described in  
818 subparagraph 2. is met.

819 7. The authority of a local government, including a special  
820 district, to mandate connection of an onsite sewage treatment  
821 and disposal system is governed by s. 4, chapter 99-395, Laws of  
822 Florida.

823 8. Notwithstanding any other ~~provision of~~ law, an onsite  
824 sewage treatment and disposal system installed after July 1,  
825 2010, in unincorporated Monroe County, excluding special  
826 wastewater districts, that complies with the standards in  
827 subparagraph 2. is not required to connect to a central sewer  
828 system until December 31, 2020.

829 (m) No product sold in the state for use in onsite sewage  
830 treatment and disposal systems may contain any substance in  
831 concentrations or amounts that would interfere with or prevent  
832 the successful operation of such system, or that would cause  
833 discharges from such systems to violate applicable water quality  
834 standards. The department shall publish criteria for products  
835 known or expected to meet the conditions of this paragraph. In  
836 the event a product does not meet such criteria, such product  
837 may be sold if the manufacturer satisfactorily demonstrates to  
838 the department that the conditions of this paragraph are met.

839 (n) Evaluations for determining the seasonal high-water  
840 table elevations or the suitability of soils for the use of a  
841 new onsite sewage treatment and disposal system shall be

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842 performed by department personnel, professional engineers  
843 registered in the state, or such other persons with expertise,  
844 as defined by rule, in making such evaluations. Evaluations for  
845 determining mean annual flood lines shall be performed by those  
846 persons identified in paragraph (2) (k) ~~(2) (j)~~. The department  
847 shall accept evaluations submitted by professional engineers and  
848 such other persons as meet the expertise established by this  
849 section or by rule unless the department has a reasonable  
850 scientific basis for questioning the accuracy or completeness of  
851 the evaluation.

852 (o) The department shall appoint a research review and  
853 advisory committee, which shall meet at least semiannually. The  
854 committee shall advise the department on directions for new  
855 research, review and rank proposals for research contracts, and  
856 review draft research reports and make comments. The committee  
857 is comprised of:

- 858 1. A representative of the Secretary of Environmental  
859 Protection State Surgeon General, or his or her designee.
- 860 2. A representative from the septic tank industry.
- 861 3. A representative from the home building industry.
- 862 4. A representative from an environmental interest group.
- 863 5. A representative from the State University System, from  
864 a department knowledgeable about onsite sewage treatment and  
865 disposal systems.
- 866 6. A professional engineer registered in this state who has  
867 work experience in onsite sewage treatment and disposal systems.
- 868 7. A representative from local government who is  
869 knowledgeable about domestic wastewater treatment.
- 870 8. A representative from the real estate profession.

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871 9. A representative from the restaurant industry.

872 10. A consumer.

873

874 Members shall be appointed for a term of 3 years, with the  
875 appointments being staggered so that the terms of no more than  
876 four members expire in any one year. Members shall serve without  
877 remuneration, but are entitled to reimbursement for per diem and  
878 travel expenses as provided in s. 112.061.

879 (p) An application for an onsite sewage treatment and  
880 disposal system permit shall be completed in full, signed by the  
881 owner or the owner's authorized representative, or by a  
882 contractor licensed under chapter 489, and shall be accompanied  
883 by all required exhibits and fees. No specific documentation of  
884 property ownership shall be required as a prerequisite to the  
885 review of an application or the issuance of a permit. The  
886 issuance of a permit does not constitute determination by the  
887 department of property ownership.

888 (q) The department may not require any form of subdivision  
889 analysis of property by an owner, developer, or subdivider prior  
890 to submission of an application for an onsite sewage treatment  
891 and disposal system.

892 (r) Nothing in this section limits the power of a  
893 municipality or county to enforce other laws for the protection  
894 of the public health and safety.

895 (s) In the siting of onsite sewage treatment and disposal  
896 systems, including drainfields, shoulders, and slopes, guttering  
897 may shall not be required on single-family residential dwelling  
898 units for systems located greater than 5 feet from the roof drip  
899 line of the house. If guttering is used on residential dwelling

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900 units, the downspouts shall be directed away from the  
901 drainfield.

902 (t) Notwithstanding ~~the provisions of~~ subparagraph (g)1.,  
903 onsite sewage treatment and disposal systems located in  
904 floodways of the Suwannee and Aucilla Rivers must adhere to the  
905 following requirements:

906 1. The absorption surface of the drainfield may shall not  
907 be subject to flooding based on 10-year flood elevations.  
908 Provided, however, for lots or parcels created by the  
909 subdivision of land in accordance with applicable local  
910 government regulations prior to January 17, 1990, if an  
911 applicant cannot construct a drainfield system with the  
912 absorption surface of the drainfield at an elevation equal to or  
913 above 10-year flood elevation, the department shall issue a  
914 permit for an onsite sewage treatment and disposal system within  
915 the 10-year floodplain of rivers, streams, and other bodies of  
916 flowing water if all of the following criteria are met:

917 a. The lot is at least one-half acre in size;

918 b. The bottom of the drainfield is at least 36 inches above  
919 the 2-year flood elevation; and

920 c. The applicant installs either: a waterless,  
921 incinerating, or organic waste composting toilet and a graywater  
922 system and drainfield in accordance with department rules; an  
923 aerobic treatment unit and drainfield in accordance with  
924 department rules; a system approved by the State Health Office  
925 that is capable of reducing effluent nitrate by at least 50  
926 percent; or a system approved by the county health department  
927 pursuant to department rule other than a system using  
928 alternative drainfield materials. The United States Department

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929 of Agriculture Soil Conservation Service soil maps, State of  
 930 Florida Water Management District data, and Federal Emergency  
 931 Management Agency Flood Insurance maps are resources that shall  
 932 be used to identify flood-prone areas.

933 2. The use of fill or mounding to elevate a drainfield  
 934 system out of the 10-year floodplain of rivers, streams, or  
 935 other bodies of flowing water may ~~shall~~ not be permitted if such  
 936 a system lies within a regulatory floodway of the Suwannee and  
 937 Aucilla Rivers. In cases where the 10-year flood elevation does  
 938 not coincide with the boundaries of the regulatory floodway, the  
 939 regulatory floodway will be considered for the purposes of this  
 940 subsection to extend at a minimum to the 10-year flood  
 941 elevation.

942 (u)1. The owner of an aerobic treatment unit system shall  
 943 maintain a current maintenance service agreement with an aerobic  
 944 treatment unit maintenance entity permitted by the department.  
 945 The maintenance entity shall inspect each aerobic treatment unit  
 946 system at least twice each year and shall report quarterly to  
 947 the department on the number of aerobic treatment unit systems  
 948 inspected and serviced. The reports may be submitted  
 949 electronically.

950 2. The property owner of an owner-occupied, single-family  
 951 residence may be approved and permitted by the department as a  
 952 maintenance entity for his or her own aerobic treatment unit  
 953 system upon written certification from the system manufacturer's  
 954 approved representative that the property owner has received  
 955 training on the proper installation and service of the system.  
 956 The maintenance entity service agreement must conspicuously  
 957 disclose that the property owner has the right to maintain his

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958 or her own system and is exempt from contractor registration  
 959 requirements for performing construction, maintenance, or  
 960 repairs on the system but is subject to all permitting  
 961 requirements.

962 3. A septic tank contractor licensed under part III of  
 963 chapter 489, if approved by the manufacturer, may not be denied  
 964 access by the manufacturer to aerobic treatment unit system  
 965 training or spare parts for maintenance entities. After the  
 966 original warranty period, component parts for an aerobic  
 967 treatment unit system may be replaced with parts that meet  
 968 manufacturer's specifications but are manufactured by others.  
 969 The maintenance entity shall maintain documentation of the  
 970 substitute part's equivalency for 2 years and shall provide such  
 971 documentation to the department upon request.

972 4. The owner of an aerobic treatment unit system shall  
 973 obtain a system operating permit from the department and allow  
 974 the department to inspect during reasonable hours each aerobic  
 975 treatment unit system at least annually, and such inspection may  
 976 include collection and analysis of system-effluent samples for  
 977 performance criteria established by rule of the department.

978 (v) The department may require the submission of detailed  
 979 system construction plans that are prepared by a professional  
 980 engineer registered in this state. The department shall  
 981 establish by rule criteria for determining when such a  
 982 submission is required.

983 (w) Any permit issued and approved by the department for  
 984 the installation, modification, or repair of an onsite sewage  
 985 treatment and disposal system shall transfer with the title to  
 986 the property in a real estate transaction. A title may not be

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987 encumbered at the time of transfer by new permit requirements by  
 988 a governmental entity for an onsite sewage treatment and  
 989 disposal system which differ from the permitting requirements in  
 990 effect at the time the system was permitted, modified, or  
 991 repaired. An inspection of a system may not be mandated by a  
 992 governmental entity at the point of sale in a real estate  
 993 transaction. This paragraph does not affect a septic tank phase-  
 994 out deferral program implemented by a consolidated government as  
 995 defined in s. 9, Art. VIII of the State Constitution (1885).

996 (x) A governmental entity, including a municipality,  
 997 county, or statutorily created commission, may not require an  
 998 engineer-designed performance-based treatment system, excluding  
 999 a passive engineer-designed performance-based treatment system,  
 1000 before the completion of the Florida Onsite Sewage Nitrogen  
 1001 Reduction Strategies Project. This paragraph does not apply to a  
 1002 governmental entity, including a municipality, county, or  
 1003 statutorily created commission, which adopted a local law,  
 1004 ordinance, or regulation on or before January 31, 2012.  
 1005 Notwithstanding this paragraph, an engineer-designed  
 1006 performance-based treatment system may be used to meet the  
 1007 requirements of the variance review and advisory committee  
 1008 recommendations.

1009 (y)1. An onsite sewage treatment and disposal system is not  
 1010 considered abandoned if the system is disconnected from a  
 1011 structure that was made unusable or destroyed following a  
 1012 disaster and if the system was properly functioning at the time  
 1013 of disconnection and was not adversely affected by the disaster.  
 1014 The onsite sewage treatment and disposal system may be  
 1015 reconnected to a rebuilt structure if:

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1016 a. The reconnection of the system is to the same type of  
 1017 structure which contains the same number of bedrooms or fewer,  
 1018 if the square footage of the structure is less than or equal to  
 1019 110 percent of the original square footage of the structure that  
 1020 existed before the disaster;

1021 b. The system is not a sanitary nuisance; and

1022 c. The system has not been altered without prior  
 1023 authorization.

1024 2. An onsite sewage treatment and disposal system that  
 1025 serves a property that is foreclosed upon is not considered  
 1026 abandoned.

1027 (z) If an onsite sewage treatment and disposal system  
 1028 permittee receives, relies upon, and undertakes construction of  
 1029 a system based upon a validly issued construction permit under  
 1030 rules applicable at the time of construction but a change to a  
 1031 rule occurs within 5 years after the approval of the system for  
 1032 construction but before the final approval of the system, the  
 1033 rules applicable and in effect at the time of construction  
 1034 approval apply at the time of final approval if fundamental site  
 1035 conditions have not changed between the time of construction  
 1036 approval and final approval.

1037 (aa) An existing-system inspection or evaluation and  
 1038 assessment, or a modification, replacement, or upgrade of an  
 1039 onsite sewage treatment and disposal system is not required for  
 1040 a remodeling addition or modification to a single-family home if  
 1041 a bedroom is not added. However, a remodeling addition or  
 1042 modification to a single-family home may not cover any part of  
 1043 the existing system or encroach upon a required setback or the  
 1044 unobstructed area. To determine if a setback or the unobstructed

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1045 area is impacted, the local health department shall review and  
 1046 verify a floor plan and site plan of the proposed remodeling  
 1047 addition or modification to the home submitted by a remodeler  
 1048 which shows the location of the system, including the distance  
 1049 of the remodeling addition or modification to the home from the  
 1050 onsite sewage treatment and disposal system. The local health  
 1051 department may visit the site or otherwise determine the best  
 1052 means of verifying the information submitted. A verification of  
 1053 the location of a system is not an inspection or evaluation and  
 1054 assessment of the system. The review and verification must be  
 1055 completed within 7 business days after receipt by the local  
 1056 health department of a floor plan and site plan. If the review  
 1057 and verification is not completed within such time, the  
 1058 remodeling addition or modification to the single-family home,  
 1059 for the purposes of this paragraph, is approved.

1060 Section 5. Section 381.00652, Florida Statutes, is created  
 1061 to read:

1062 381.00652 Onsite sewage treatment and disposal systems  
 1063 technical advisory committee.-

1064 (1) An onsite sewage treatment and disposal systems  
 1065 technical advisory committee, a committee as defined in s.  
 1066 20.03(8), is created within the department. The committee shall:

1067 (a) Provide recommendations to increase the availability in  
 1068 the marketplace of nutrient-removing onsite sewage treatment and  
 1069 disposal systems, including systems that are cost-effective,  
 1070 low-maintenance, and reliable.

1071 (b) Consider and recommend regulatory options, such as  
 1072 fast-track approval, prequalification, or expedited permitting,  
 1073 to facilitate the introduction and use of nutrient-removing

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1074 onsite sewage treatment and disposal systems that have been  
 1075 reviewed and approved by a national agency or organization, such  
 1076 as the American National Standards Institute 245 systems  
 1077 approved by the National Sanitation Foundation International.

1078 (c) Provide recommendations for appropriate setback  
 1079 distances for onsite sewage treatment and disposal systems from  
 1080 surface water, groundwater, and wells.

1081 (2) The department shall use existing and available  
 1082 resources to administer and support the activities of the  
 1083 committee.

1084 (3) (a) By August 1, 2021, the department, in consultation  
 1085 with the Department of Health, shall appoint no more than nine  
 1086 members to the committee, including, but not limited to, the  
 1087 following:

1088 1. A professional engineer.

1089 2. A septic tank contractor.

1090 3. A representative from the home building industry.

1091 4. A representative from the real estate industry.

1092 5. A representative from the onsite sewage treatment and  
 1093 disposal system industry.

1094 6. A representative from local government.

1095 7. Two representatives from the environmental community.

1096 8. A representative of the scientific and technical  
 1097 community who has substantial expertise in the areas of the fate  
 1098 and transport of water pollutants, toxicology, epidemiology,  
 1099 geology, biology, or environmental sciences.

1100 (b) Members shall serve without compensation and are not  
 1101 entitled to reimbursement for per diem or travel expenses.

1102 (4) By January 1, 2022, the committee shall submit its

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1103 recommendations to the Governor, the President of the Senate,  
 1104 and the Speaker of the House of Representatives.

1105 (5) This section expires August 15, 2022.

1106 (6) For purposes of this section, the term "department"  
 1107 means the Department of Environmental Protection.

1108 Section 6. Effective July 1, 2021, section 381.0068,  
 1109 Florida Statutes, is repealed.

1110 Section 7. Present subsections (14) through (44) of section  
 1111 403.061, Florida Statutes, are redesignated as subsections (15)  
 1112 through (45), respectively, a new subsection (14) is added to  
 1113 that section, and subsection (7) of that section is amended, to  
 1114 read:

1115 403.061 Department; powers and duties.—The department shall  
 1116 have the power and the duty to control and prohibit pollution of  
 1117 air and water in accordance with the law and rules adopted and  
 1118 promulgated by it and, for this purpose, to:

1119 (7) Adopt rules ~~pursuant to ss. 120.536(1) and 120.54~~ to  
 1120 implement ~~the provisions of~~ this act. Any rule adopted pursuant  
 1121 to this act ~~must shall~~ be consistent with the provisions of  
 1122 federal law, if any, relating to control of emissions from motor  
 1123 vehicles, effluent limitations, pretreatment requirements, or  
 1124 standards of performance. ~~A No~~ county, municipality, or  
 1125 political subdivision ~~may not shall~~ adopt or enforce any local  
 1126 ordinance, special law, or local regulation requiring the  
 1127 installation of Stage II vapor recovery systems, as currently  
 1128 defined by department rule, unless such county, municipality, or  
 1129 political subdivision is or has been in the past designated by  
 1130 federal regulation as a moderate, serious, or severe ozone  
 1131 nonattainment area. Rules adopted pursuant to this act ~~may shall~~

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1132 not require dischargers of waste into waters of the state to  
 1133 improve natural background conditions. The department shall  
 1134 adopt rules to reasonably limit, reduce, and eliminate leaks,  
 1135 seepages, or inputs into the underground pipes of wastewater  
 1136 collection systems. Discharges from steam electric generating  
 1137 plants existing or licensed under this chapter on July 1, 1984,  
 1138 ~~may shall~~ not be required to be treated to a greater extent than  
 1139 may be necessary to assure that the quality of nonthermal  
 1140 components of discharges from nonrecirculated cooling water  
 1141 systems is as high as the quality of the makeup waters; that the  
 1142 quality of nonthermal components of discharges from recirculated  
 1143 cooling water systems is no lower than is allowed for blowdown  
 1144 from such systems; or that the quality of noncooling system  
 1145 discharges which receive makeup water from a receiving body of  
 1146 water which does not meet applicable department water quality  
 1147 standards is as high as the quality of the receiving body of  
 1148 water. The department may not adopt standards more stringent  
 1149 than federal regulations, except as provided in s. 403.804.

1150 (14) In order to promote resilient utilities, require  
 1151 public utilities or their affiliated companies that hold or are  
 1152 seeking a wastewater discharge permit to file reports and other  
 1153 data regarding transactions or allocations of common costs among  
 1154 the utility or entity and such affiliated companies. The  
 1155 department may require such reports or other data necessary to  
 1156 ensure a permitted entity is reporting expenditures on pollution  
 1157 mitigation and prevention, including, but not limited to, the  
 1158 prevention of sanitary sewer overflows, collection and  
 1159 transmission system pipe leakages, and inflow and infiltration.  
 1160 The department shall adopt rules to implement this subsection.

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1161  
1162 The department shall implement such programs in conjunction with  
1163 its other powers and duties and shall place special emphasis on  
1164 reducing and eliminating contamination that presents a threat to  
1165 humans, animals or plants, or to the environment.

1166 Section 8. Section 403.0616, Florida Statutes, is created  
1167 to read:

1168 403.0616 Real-time water quality monitoring program.-

1169 (1) Subject to appropriation, the department shall  
1170 establish a real-time water quality monitoring program to assist  
1171 in the restoration, preservation, and enhancement of impaired  
1172 waterbodies and coastal resources.

1173 (2) In order to expedite the creation and implementation of  
1174 the program, the department is encouraged to form public-private  
1175 partnerships with established scientific entities that have  
1176 proven existing real-time water quality monitoring equipment and  
1177 experience in deploying the equipment.

1178 Section 9. Subsection (7) of section 403.067, Florida  
1179 Statutes, is amended to read:

1180 403.067 Establishment and implementation of total maximum  
1181 daily loads.-

1182 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND  
1183 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.-

1184 (a) *Basin management action plans.-*

1185 1. In developing and implementing the total maximum daily  
1186 load for a water body, the department, or the department in  
1187 conjunction with a water management district, may develop a  
1188 basin management action plan that addresses some or all of the  
1189 watersheds and basins tributary to the water body. Such plan

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1190 must integrate the appropriate management strategies available  
1191 to the state through existing water quality protection programs  
1192 to achieve the total maximum daily loads and may provide for  
1193 phased implementation of these management strategies to promote  
1194 timely, cost-effective actions as provided for in s. 403.151.  
1195 The plan must establish a schedule implementing the management  
1196 strategies, establish a basis for evaluating the plan's  
1197 effectiveness, and identify feasible funding strategies for  
1198 implementing the plan's management strategies. The management  
1199 strategies may include regional treatment systems or other  
1200 public works, where appropriate, and voluntary trading of water  
1201 quality credits to achieve the needed pollutant load reductions.

1202 2. A basin management action plan must equitably allocate,  
1203 pursuant to paragraph (6)(b), pollutant reductions to individual  
1204 basins, as a whole to all basins, or to each identified point  
1205 source or category of nonpoint sources, as appropriate. For  
1206 nonpoint sources for which best management practices have been  
1207 adopted, the initial requirement specified by the plan must be  
1208 those practices developed pursuant to paragraph (c). ~~When~~ Where  
1209 appropriate, the plan may take into account the benefits of  
1210 pollutant load reduction achieved by point or nonpoint sources  
1211 that have implemented management strategies to reduce pollutant  
1212 loads, including best management practices, before the  
1213 development of the basin management action plan. The plan must  
1214 also identify the mechanisms that will address potential future  
1215 increases in pollutant loading.

1216 3. The basin management action planning process is intended  
1217 to involve the broadest possible range of interested parties,  
1218 with the objective of encouraging the greatest amount of



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1219 cooperation and consensus possible. In developing a basin  
 1220 management action plan, the department shall assure that key  
 1221 stakeholders, including, but not limited to, applicable local  
 1222 governments, water management districts, the Department of  
 1223 Agriculture and Consumer Services, other appropriate state  
 1224 agencies, local soil and water conservation districts,  
 1225 environmental groups, regulated interests, and affected  
 1226 pollution sources, are invited to participate in the process.  
 1227 The department shall hold at least one public meeting in the  
 1228 vicinity of the watershed or basin to discuss and receive  
 1229 comments during the planning process and shall otherwise  
 1230 encourage public participation to the greatest practicable  
 1231 extent. Notice of the public meeting must be published in a  
 1232 newspaper of general circulation in each county in which the  
 1233 watershed or basin lies at least not less than 5 days, but not  
 1234 ~~nor~~ more than 15 days, before the public meeting. A basin  
 1235 management action plan does not supplant or otherwise alter any  
 1236 assessment made under subsection (3) or subsection (4) or any  
 1237 calculation or initial allocation.

1238 4. Each new or revised basin management action plan shall  
 1239 include:

1240 a. The appropriate management strategies available through  
 1241 existing water quality protection programs to achieve total  
 1242 maximum daily loads, which may provide for phased implementation  
 1243 to promote timely, cost-effective actions as provided for in s.  
 1244 403.151;

1245 b. A description of best management practices adopted by  
 1246 rule;

1247 c. A list of projects in priority ranking with a planning-

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1248 level cost estimate and estimated date of completion for each  
 1249 listed project;

1250 d. The source and amount of financial assistance to be made  
 1251 available by the department, a water management district, or  
 1252 other entity for each listed project, if applicable; and

1253 e. A planning-level estimate of each listed project's  
 1254 expected load reduction, if applicable.

1255 5. The department shall adopt all or any part of a basin  
 1256 management action plan and any amendment to such plan by  
 1257 secretarial order pursuant to chapter 120 to implement ~~the~~  
 1258 ~~provisions of~~ this section.

1259 6. The basin management action plan must include milestones  
 1260 for implementation and water quality improvement, and an  
 1261 associated water quality monitoring component sufficient to  
 1262 evaluate whether reasonable progress in pollutant load  
 1263 reductions is being achieved over time. An assessment of  
 1264 progress toward these milestones shall be conducted every 5  
 1265 years, and revisions to the plan shall be made as appropriate.  
 1266 Revisions to the basin management action plan shall be made by  
 1267 the department in cooperation with basin stakeholders. Revisions  
 1268 to the management strategies required for nonpoint sources must  
 1269 follow the procedures set forth in subparagraph (c)4. Revised  
 1270 basin management action plans must be adopted pursuant to  
 1271 subparagraph 5.

1272 7. In accordance with procedures adopted by rule under  
 1273 paragraph (9) (c), basin management action plans, and other  
 1274 pollution control programs under local, state, or federal  
 1275 authority as provided in subsection (4), may allow point or  
 1276 nonpoint sources that will achieve greater pollutant reductions

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1277 than required by an adopted total maximum daily load or  
 1278 wasteload allocation to generate, register, and trade water  
 1279 quality credits for the excess reductions to enable other  
 1280 sources to achieve their allocation; however, the generation of  
 1281 water quality credits does not remove the obligation of a source  
 1282 or activity to meet applicable technology requirements or  
 1283 adopted best management practices. Such plans must allow trading  
 1284 between NPDES permittees, and trading that may or may not  
 1285 involve NPDES permittees, where the generation or use of the  
 1286 credits involve an entity or activity not subject to department  
 1287 water discharge permits whose owner voluntarily elects to obtain  
 1288 department authorization for the generation and sale of credits.

1289 8. ~~The provisions of~~ The department's rule relating to the  
 1290 equitable abatement of pollutants into surface waters do not  
 1291 apply to water bodies or water body segments for which a basin  
 1292 management plan that takes into account future new or expanded  
 1293 activities or discharges has been adopted under this section.

1294 9. In order to promote resilient utilities, if the  
 1295 department identifies domestic wastewater facilities or onsite  
 1296 sewage treatment and disposal systems as contributors of at  
 1297 least 20 percent of point source or nonpoint source nutrient  
 1298 pollution or if the department determines remediation is  
 1299 necessary to achieve the total maximum daily load, a basin  
 1300 management action plan for a nutrient total maximum daily load  
 1301 must include the following:

1302 a. A wastewater treatment plan that addresses domestic  
 1303 wastewater developed by each local government in cooperation  
 1304 with the department, the water management district, and the  
 1305 public and private domestic wastewater facilities within the

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1306 jurisdiction of the local government. The wastewater treatment  
 1307 plan must:

1308 (I) Provide for construction, expansion, or upgrades  
 1309 necessary to achieve the total maximum daily load requirements  
 1310 applicable to the domestic wastewater facility.

1311 (II) Include the permitted capacity in gallons per day for  
 1312 the domestic wastewater facility; the average nutrient  
 1313 concentration and the estimated average nutrient load of the  
 1314 domestic wastewater; a timeline of the dates by which the  
 1315 construction of any facility improvements will begin and be  
 1316 completed and the date by which operations of the improved  
 1317 facility will begin; the estimated cost of the improvements; and  
 1318 the identity of responsible parties.

1319  
 1320 The wastewater treatment plan must be adopted as part of the  
 1321 basin management action plan no later than July 1, 2025. A local  
 1322 government that does not have a domestic wastewater treatment  
 1323 facility in its jurisdiction is not required to develop a  
 1324 wastewater treatment plan unless there is a demonstrated need to  
 1325 establish a domestic wastewater treatment facility within its  
 1326 jurisdiction to improve water quality necessary to achieve a  
 1327 total maximum daily load.

1328 b. An onsite sewage treatment and disposal system  
 1329 remediation plan developed by each local government in  
 1330 cooperation with the department, the Department of Health, water  
 1331 management districts, and public and private domestic wastewater  
 1332 facilities.

1333 (I) The onsite sewage treatment and disposal system  
 1334 remediation plan must identify cost-effective and financially

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1335 feasible projects necessary to achieve the nutrient load  
 1336 reductions required for onsite sewage treatment and disposal  
 1337 systems. To identify cost-effective and financially feasible  
 1338 projects for remediation of onsite sewage treatment and disposal  
 1339 systems, the local government shall:

1340 (A) Include an inventory of onsite sewage treatment and  
 1341 disposal systems based on the best information available;

1342 (B) Identify onsite sewage treatment and disposal systems  
 1343 that would be eliminated through connection to existing or  
 1344 future central wastewater infrastructure, that would be replaced  
 1345 with or upgraded to advanced nutrient-removal systems, or that  
 1346 would remain on conventional onsite sewage treatment and  
 1347 disposal systems;

1348 (C) Estimate the costs of potential onsite sewage treatment  
 1349 and disposal systems connections, upgrades, or replacements; and

1350 (D) Identify deadlines and interim milestones for the  
 1351 planning, design, and construction of projects.

1352 (II) The department shall adopt the onsite sewage treatment  
 1353 and disposal system remediation plan as part of the basin  
 1354 management action plan no later than July 1, 2025, or as  
 1355 required for Outstanding Florida Springs under s. 373.807.

1356 10. When identifying wastewater projects in a basin  
 1357 management action plan, the department may not require the  
 1358 higher cost option if it achieves the same nutrient load  
 1359 reduction as a lower cost option.

1360 *(b) Total maximum daily load implementation.-*

1361 1. The department shall be the lead agency in coordinating  
 1362 the implementation of the total maximum daily loads through  
 1363 existing water quality protection programs. Application of a

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1364 total maximum daily load by a water management district must be  
 1365 consistent with this section and does not require the issuance  
 1366 of an order or a separate action pursuant to s. 120.536(1) or s.  
 1367 120.54 for the adoption of the calculation and allocation  
 1368 previously established by the department. Such programs may  
 1369 include, but are not limited to:

1370 a. Permitting and other existing regulatory programs,  
 1371 including water-quality-based effluent limitations;

1372 b. Nonregulatory and incentive-based programs, including  
 1373 best management practices, cost sharing, waste minimization,  
 1374 pollution prevention, agreements established pursuant to s.  
 1375 403.061(22) ~~s. 403.061(21)~~, and public education;

1376 c. Other water quality management and restoration  
 1377 activities, for example surface water improvement and management  
 1378 plans approved by water management districts or basin management  
 1379 action plans developed pursuant to this subsection;

1380 d. Trading of water quality credits or other equitable  
 1381 economically based agreements;

1382 e. Public works including capital facilities; or

1383 f. Land acquisition.

1384 2. For a basin management action plan adopted pursuant to  
 1385 paragraph (a), any management strategies and pollutant reduction  
 1386 requirements associated with a pollutant of concern for which a  
 1387 total maximum daily load has been developed, including effluent  
 1388 limits set forth for a discharger subject to NPDES permitting,  
 1389 if any, must be included in a timely manner in subsequent NPDES  
 1390 permits or permit modifications for that discharger. The  
 1391 department may not impose limits or conditions implementing an  
 1392 adopted total maximum daily load in an NPDES permit until the

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1393 permit expires, the discharge is modified, or the permit is  
 1394 reopened pursuant to an adopted basin management action plan.

1395 a. Absent a detailed allocation, total maximum daily loads  
 1396 must be implemented through NPDES permit conditions that provide  
 1397 for a compliance schedule. In such instances, a facility's NPDES  
 1398 permit must allow time for the issuance of an order adopting the  
 1399 basin management action plan. The time allowed for the issuance  
 1400 of an order adopting the plan may not exceed 5 years. Upon  
 1401 issuance of an order adopting the plan, the permit must be  
 1402 reopened or renewed, as necessary, and permit conditions  
 1403 consistent with the plan must be established. Notwithstanding  
 1404 the other provisions of this subparagraph, upon request by an  
 1405 NPDES permittee, the department as part of a permit issuance,  
 1406 renewal, or modification may establish individual allocations  
 1407 before the adoption of a basin management action plan.

1408 b. For holders of NPDES municipal separate storm sewer  
 1409 system permits and other stormwater sources, implementation of a  
 1410 total maximum daily load or basin management action plan must be  
 1411 achieved, to the maximum extent practicable, through the use of  
 1412 best management practices or other management measures.

1413 c. The basin management action plan does not relieve the  
 1414 discharger from any requirement to obtain, renew, or modify an  
 1415 NPDES permit or to abide by other requirements of the permit.

1416 d. Management strategies set forth in a basin management  
 1417 action plan to be implemented by a discharger subject to  
 1418 permitting by the department must be completed pursuant to the  
 1419 schedule set forth in the basin management action plan. This  
 1420 implementation schedule may extend beyond the 5-year term of an  
 1421 NPDES permit.

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1422 e. Management strategies and pollution reduction  
 1423 requirements set forth in a basin management action plan for a  
 1424 specific pollutant of concern are not subject to challenge under  
 1425 chapter 120 at the time they are incorporated, in an identical  
 1426 form, into a subsequent NPDES permit or permit modification.

1427 f. For nonagricultural pollutant sources not subject to  
 1428 NPDES permitting but permitted pursuant to other state,  
 1429 regional, or local water quality programs, the pollutant  
 1430 reduction actions adopted in a basin management action plan must  
 1431 be implemented to the maximum extent practicable as part of  
 1432 those permitting programs.

1433 g. A nonpoint source discharger included in a basin  
 1434 management action plan must demonstrate compliance with the  
 1435 pollutant reductions established under subsection (6) by  
 1436 implementing the appropriate best management practices  
 1437 established pursuant to paragraph (c) or conducting water  
 1438 quality monitoring prescribed by the department or a water  
 1439 management district. A nonpoint source discharger may, in  
 1440 accordance with department rules, supplement the implementation  
 1441 of best management practices with water quality credit trades in  
 1442 order to demonstrate compliance with the pollutant reductions  
 1443 established under subsection (6).

1444 h. A nonpoint source discharger included in a basin  
 1445 management action plan may be subject to enforcement action by  
 1446 the department or a water management district based upon a  
 1447 failure to implement the responsibilities set forth in sub-  
 1448 subparagraph g.

1449 i. A landowner, discharger, or other responsible person who  
 1450 is implementing applicable management strategies specified in an

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1451 adopted basin management action plan may not be required by  
 1452 permit, enforcement action, or otherwise to implement additional  
 1453 management strategies, including water quality credit trading,  
 1454 to reduce pollutant loads to attain the pollutant reductions  
 1455 established pursuant to subsection (6) and shall be deemed to be  
 1456 in compliance with this section. This subparagraph does not  
 1457 limit the authority of the department to amend a basin  
 1458 management action plan as specified in subparagraph (a)6.

1459 (c) *Best management practices.*—

1460 1. The department, in cooperation with the water management  
 1461 districts and other interested parties, as appropriate, may  
 1462 develop suitable interim measures, best management practices, or  
 1463 other measures necessary to achieve the level of pollution  
 1464 reduction established by the department for nonagricultural  
 1465 nonpoint pollutant sources in allocations developed pursuant to  
 1466 subsection (6) and this subsection. These practices and measures  
 1467 may be adopted by rule by the department and the water  
 1468 management districts and, where adopted by rule, shall be  
 1469 implemented by those parties responsible for nonagricultural  
 1470 nonpoint source pollution.

1471 2. The Department of Agriculture and Consumer Services may  
 1472 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
 1473 suitable interim measures, best management practices, or other  
 1474 measures necessary to achieve the level of pollution reduction  
 1475 established by the department for agricultural pollutant sources  
 1476 in allocations developed pursuant to subsection (6) and this  
 1477 subsection or for programs implemented pursuant to paragraph  
 1478 (12) (b). These practices and measures may be implemented by  
 1479 those parties responsible for agricultural pollutant sources and

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1480 the department, the water management districts, and the  
 1481 Department of Agriculture and Consumer Services shall assist  
 1482 with implementation. In the process of developing and adopting  
 1483 rules for interim measures, best management practices, or other  
 1484 measures, the Department of Agriculture and Consumer Services  
 1485 shall consult with the department, the Department of Health, the  
 1486 water management districts, representatives from affected  
 1487 farming groups, and environmental group representatives. Such  
 1488 rules must also incorporate provisions for a notice of intent to  
 1489 implement the practices and a system to assure the  
 1490 implementation of the practices, including site inspection and  
 1491 recordkeeping requirements.

1492 3. Where interim measures, best management practices, or  
 1493 other measures are adopted by rule, the effectiveness of such  
 1494 practices in achieving the levels of pollution reduction  
 1495 established in allocations developed by the department pursuant  
 1496 to subsection (6) and this subsection or in programs implemented  
 1497 pursuant to paragraph (12) (b) must be verified at representative  
 1498 sites by the department. The department shall use best  
 1499 professional judgment in making the initial verification that  
 1500 the best management practices are reasonably expected to be  
 1501 effective and, where applicable, must notify the appropriate  
 1502 water management district or the Department of Agriculture and  
 1503 Consumer Services of its initial verification before the  
 1504 adoption of a rule proposed pursuant to this paragraph.  
 1505 Implementation, in accordance with rules adopted under this  
 1506 paragraph, of practices that have been initially verified to be  
 1507 effective, or verified to be effective by monitoring at  
 1508 representative sites, by the department, shall provide a

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1509 presumption of compliance with state water quality standards and  
 1510 release from ~~the provisions of~~ s. 376.307(5) for those  
 1511 pollutants addressed by the practices, and the department is not  
 1512 authorized to institute proceedings against the owner of the  
 1513 source of pollution to recover costs or damages associated with  
 1514 the contamination of surface water or groundwater caused by  
 1515 those pollutants. Research projects funded by the department, a  
 1516 water management district, or the Department of Agriculture and  
 1517 Consumer Services to develop or demonstrate interim measures or  
 1518 best management practices shall be granted a presumption of  
 1519 compliance with state water quality standards and a release from  
 1520 ~~the provisions of~~ s. 376.307(5). The presumption of compliance  
 1521 and release is limited to the research site and only for those  
 1522 pollutants addressed by the interim measures or best management  
 1523 practices. Eligibility for the presumption of compliance and  
 1524 release is limited to research projects on sites where the owner  
 1525 or operator of the research site and the department, a water  
 1526 management district, or the Department of Agriculture and  
 1527 Consumer Services have entered into a contract or other  
 1528 agreement that, at a minimum, specifies the research objectives,  
 1529 the cost-share responsibilities of the parties, and a schedule  
 1530 that details the beginning and ending dates of the project.

1531 4. Where water quality problems are demonstrated, despite  
 1532 the appropriate implementation, operation, and maintenance of  
 1533 best management practices and other measures required by rules  
 1534 adopted under this paragraph, the department, a water management  
 1535 district, or the Department of Agriculture and Consumer  
 1536 Services, in consultation with the department, shall institute a  
 1537 reevaluation of the best management practice or other measure.

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1538 Should the reevaluation determine that the best management  
 1539 practice or other measure requires modification, the department,  
 1540 a water management district, or the Department of Agriculture  
 1541 and Consumer Services, as appropriate, shall revise the rule to  
 1542 require implementation of the modified practice within a  
 1543 reasonable time period as specified in the rule.

1544 5. The Department of Agriculture and Consumer Services  
 1545 shall collect fertilization and nutrient records from each  
 1546 agricultural producer enrolled in best management practices that  
 1547 address nutrients. These records must include rates of  
 1548 application in pounds per acre; application method; fertilizer  
 1549 type or source; acres covered; formulation of the applied  
 1550 fertilizer, including nitrogen and phosphorus content; location;  
 1551 grade; and dates applied. By each March 1, the Department of  
 1552 Agriculture and Consumer Services shall provide the previous  
 1553 year's records to the department.

1554 6. Agricultural records relating to processes or methods of  
 1555 production, costs of production, profits, or other financial  
 1556 information held by the Department of Agriculture and Consumer  
 1557 Services pursuant to subparagraphs 3. and 4. or pursuant to any  
 1558 rule adopted pursuant to subparagraph 2. are confidential and  
 1559 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 1560 Constitution. Upon request, records made confidential and exempt  
 1561 pursuant to this subparagraph shall be released to the  
 1562 department or any water management district provided that the  
 1563 confidentiality specified by this subparagraph for such records  
 1564 is maintained.

1565 ~~7.6. The provisions of~~ Subparagraphs 1. and 2. do not  
 1566 preclude the department or water management district from

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1567 requiring compliance with water quality standards or with  
 1568 current best management practice requirements set forth in any  
 1569 applicable regulatory program authorized by law for the purpose  
 1570 of protecting water quality. Additionally, subparagraphs 1. and  
 1571 2. are applicable only to the extent that they do not conflict  
 1572 with any rules adopted by the department that are necessary to  
 1573 maintain a federally delegated or approved program.

1574 (d) *Enforcement and verification of basin management action*  
 1575 *plans and management strategies.*—

1576 1. Basin management action plans are enforceable pursuant  
 1577 to this section and ss. 403.121, 403.141, and 403.161.  
 1578 Management strategies, including best management practices and  
 1579 water quality monitoring, are enforceable under this chapter.

1580 2. No later than January 1, 2017:

1581 a. The department, in consultation with the water  
 1582 management districts and the Department of Agriculture and  
 1583 Consumer Services, shall initiate rulemaking to adopt procedures  
 1584 to verify implementation of water quality monitoring required in  
 1585 lieu of implementation of best management practices or other  
 1586 measures pursuant to sub-subparagraph (b)2.g.;

1587 b. The department, in consultation with the water  
 1588 management districts and the Department of Agriculture and  
 1589 Consumer Services, shall initiate rulemaking to adopt procedures  
 1590 to verify implementation of nonagricultural interim measures,  
 1591 best management practices, or other measures adopted by rule  
 1592 pursuant to subparagraph (c)1.; and

1593 c. The Department of Agriculture and Consumer Services, in  
 1594 consultation with the water management districts and the  
 1595 department, shall initiate rulemaking to adopt procedures to

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1596 verify implementation of agricultural interim measures, best  
 1597 management practices, or other measures adopted by rule pursuant  
 1598 to subparagraph(c)2.  
 1599

1600 The rules required under this subparagraph shall include  
 1601 enforcement procedures applicable to the landowner, discharger,  
 1602 or other responsible person required to implement applicable  
 1603 management strategies, including best management practices or  
 1604 water quality monitoring as a result of noncompliance.

1605 3. At least every 2 years, the Department of Agriculture  
 1606 and Consumer Services shall perform onsite inspections of each  
 1607 agricultural producer that enrolls in a best management practice  
 1608 to ensure that such practice is being properly implemented.

1609 (e) Data collection and research.—

1610 1. The Department of Agriculture and Consumer Services, the  
 1611 University of Florida Institute of Food and Agricultural  
 1612 Sciences, and other state universities and Florida College  
 1613 System institutions with agricultural research programs may  
 1614 annually develop research plans and legislative budget requests  
 1615 to:

1616 a. Evaluate and suggest enhancements to the existing  
 1617 adopted agricultural best management practices to reduce  
 1618 nutrients;

1619 b. Develop new best management practices that, if proven  
 1620 effective, the Department of Agriculture and Consumer Services  
 1621 may adopt by rule pursuant to paragraph 403.067(7)(c); and

1622 c. Develop agricultural nutrient reduction projects that  
 1623 willing participants could implement on a site-specific,  
 1624 cooperative basis, in addition to best management practices. The

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1625 department may consider these projects for inclusion in a basin  
 1626 management action plan. These nutrient reduction projects must  
 1627 reduce the nutrient impacts from agricultural operations on  
 1628 water quality when evaluated with the projects and management  
 1629 strategies currently included in the basin management action  
 1630 plan.

1631 2. To be considered for funding, the University of Florida  
 1632 Institute of Food and Agricultural Sciences and other state  
 1633 universities and Florida College System institutions that have  
 1634 agricultural research programs must submit such plans to the  
 1635 department and the Department of Agriculture and Consumer  
 1636 Services by August 1 of each year.

1637 Section 10. Section 403.0673, Florida Statutes, is created  
 1638 to read:

1639 403.0673 Wastewater grant program.—A wastewater grant  
 1640 program is established within the Department of Environmental  
 1641 Protection.

1642 (1) Subject to the appropriation of funds by the  
 1643 Legislature, the department may provide grants for the following  
 1644 projects within a basin management action plan, an alternative  
 1645 restoration plan adopted by final order, or a rural area of  
 1646 opportunity under s. 288.0656 which will individually or  
 1647 collectively reduce excess nutrient pollution:

1648 (a) Projects to retrofit onsite sewage treatment and  
 1649 disposal systems to upgrade them to nutrient-reducing onsite  
 1650 sewage treatment and disposal systems.

1651 (b) Projects to construct, upgrade, or expand facilities to  
 1652 provide advanced waste treatment, as defined in s. 403.086(4).

1653 (c) Projects to connect onsite sewage treatment and

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1654 disposal systems to central sewer facilities.

1655 (2) In allocating such funds, priority must be given to  
 1656 projects that subsidize the connection of onsite sewage  
 1657 treatment and disposal systems to a wastewater treatment plant.  
 1658 In determining priorities, the department shall consider the  
 1659 estimated reduction in nutrient load per project; project  
 1660 readiness; cost-effectiveness of the project; overall  
 1661 environmental benefit of a project; the location of a project;  
 1662 the availability of local matching funds; and projected water  
 1663 savings or quantity improvements associated with a project.

1664 (3) Each grant for a project described in subsection (1)  
 1665 must require a minimum of a 50 percent local match of funds.  
 1666 However, the department may, at its discretion, waive, in whole  
 1667 or in part, this consideration of the local contribution for  
 1668 proposed projects within an area designated as a rural area of  
 1669 opportunity under s. 288.0656.

1670 (4) The department shall coordinate with each water  
 1671 management district, as necessary, to identify grant recipients  
 1672 in each district.

1673 (5) Beginning January 1, 2021, and each January 1  
 1674 thereafter, the department shall submit a report regarding the  
 1675 projects funded pursuant to this section to the Governor, the  
 1676 President of the Senate, and the Speaker of the House of  
 1677 Representatives.

1678 Section 11. Section 403.0855, Florida Statutes, is created  
 1679 to read:

1680 403.0855 Biosolids management.—The Legislature finds that  
 1681 it is in the best interest of this state to regulate biosolids  
 1682 management in order to minimize the migration of nutrients that



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1683 impair waterbodies. The Legislature further finds that the  
 1684 expedited implementation of the recommendations of the Biosolids  
 1685 Technical Advisory Committee, including permitting according to  
 1686 site-specific application conditions, an increased inspection  
 1687 rate, groundwater and surface water monitoring protocols, and  
 1688 nutrient management research, will improve biosolids management  
 1689 and assist in protecting this state's water resources and water  
 1690 quality. The department shall adopt rules for biosolids  
 1691 management. Rules adopted by the department pursuant to this  
 1692 section before the 2021 regular legislative session are not  
 1693 subject to s. 120.541(3).

1694 Section 12. Present subsections (7) through (10) of section  
 1695 403.086, Florida Statutes, are redesignated as subsections (8)  
 1696 through (11), respectively, a new subsection (7) is added to  
 1697 that section, and paragraph (c) of subsection (1) and subsection  
 1698 (2) of that section are amended, to read:

1699 403.086 Sewage disposal facilities; advanced and secondary  
 1700 waste treatment.—

1701 (1)

1702 (c) Notwithstanding any other provisions of this chapter or  
 1703 chapter 373, facilities for sanitary sewage disposal may not  
 1704 dispose of any wastes into Old Tampa Bay, Tampa Bay,  
 1705 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater  
 1706 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,  
 1707 or Charlotte Harbor Bay, Indian River Lagoon beginning July 1,  
 1708 2025, or into any river, stream, channel, canal, bay, bayou,  
 1709 sound, or other water tributary thereto, without providing  
 1710 advanced waste treatment, as defined in subsection (4), approved  
 1711 by the department. This paragraph shall not apply to facilities

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1712 which were permitted by February 1, 1987, and which discharge  
 1713 secondary treated effluent, followed by water hyacinth  
 1714 treatment, to tributaries of tributaries of the named waters; or  
 1715 to facilities permitted to discharge to the nontidally  
 1716 influenced portions of the Peace River.

1717 (2) Any facilities for sanitary sewage disposal shall  
 1718 provide for secondary waste treatment, a power outage  
 1719 contingency plan that mitigates the impacts of power outages on  
 1720 the utility's collection system and pump stations, and, ~~in~~  
 1721 addition thereto, advanced waste treatment as deemed necessary  
 1722 and ordered by the Department of Environmental Protection.  
 1723 Failure to conform is ~~shall be~~ punishable by a civil penalty of  
 1724 \$500 for each 24-hour day or fraction thereof that such failure  
 1725 is allowed to continue thereafter.

1726 (7) All facilities for sanitary sewage under subsection (2)  
 1727 which control a collection or transmission system of pipes and  
 1728 pumps to collect and transmit wastewater from domestic or  
 1729 industrial sources to the facility shall take steps to prevent  
 1730 sanitary sewer overflows or underground pipe leaks and ensure  
 1731 that collected waste water reaches the facility for appropriate  
 1732 treatment. Facilities must use inflow and infiltration studies  
 1733 and leakage surveys to develop pipe assessment, repair, and  
 1734 replacement action plans that comply with department rule to  
 1735 limit, reduce, and eliminate leaks, seepages, or inputs into  
 1736 wastewater treatment systems' underground pipes. The pipe  
 1737 assessment, repair, and replacement action plans must be  
 1738 reported to the department. The facility report must include  
 1739 information regarding the annual expenditures dedicated to the  
 1740 inflow and infiltration studies and the required replacement

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1741 action plans, as well as expenditures that are dedicated to pipe  
 1742 assessment, repair, and replacement. The department shall adopt  
 1743 rules regarding the implementation of inflow and infiltration  
 1744 studies and leakage surveys. Substantial compliance with this  
 1745 subsection is evidence in mitigation for the purposes of  
 1746 assessing penalties pursuant to ss. 403.121 and 403.141.

1747 Section 13. Present subsections (4) through (10) of section  
 1748 403.087, Florida Statutes, are redesignated as subsections (5)  
 1749 through (11), respectively, and a new subsection (4) is added to  
 1750 that section, to read:

1751 403.087 Permits; general issuance; denial; revocation;  
 1752 prohibition; penalty.—

1753 (4) The department shall issue an operation permit for a  
 1754 domestic wastewater treatment facility other than a facility  
 1755 regulated under the National Pollutant Discharge Elimination  
 1756 System Program under s. 403.0885 for a term of up to 10 years if  
 1757 the facility is meeting the stated goals in its action plan  
 1758 adopted pursuant to s. 403.086(7).

1759 Section 14. Present subsections (3) and (4) of section  
 1760 403.088, Florida Statutes, are redesignated as subsections (4)  
 1761 and (5), respectively, a new subsection (3) is added to that  
 1762 section, and paragraph (c) of subsection (2) of that section is  
 1763 amended, to read:

1764 403.088 Water pollution operation permits; conditions.—

1765 (2)

1766 (c) A permit shall:

1767 1. Specify the manner, nature, volume, and frequency of the  
 1768 discharge permitted;

1769 2. Require proper operation and maintenance of any

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1770 pollution abatement facility by qualified personnel in  
 1771 accordance with standards established by the department;

1772 3. Require a deliberate, proactive approach to  
 1773 investigating or surveying a significant percentage of the  
 1774 wastewater collection system throughout the duration of the  
 1775 permit to determine pipe integrity, which must be accomplished  
 1776 in an economically feasible manner. The permittee shall submit  
 1777 an annual report to the department which details facility  
 1778 revenues and expenditures in a manner prescribed by department  
 1779 rule. The report must detail any deviation from annual  
 1780 expenditures related to inflow and infiltration studies; model  
 1781 plans for pipe assessment, repair, and replacement; and pipe  
 1782 assessment, repair, and replacement required under s.  
 1783 403.086(7). Substantial compliance with this subsection is  
 1784 evidence in mitigation for the purposes of assessing penalties  
 1785 pursuant to ss. 403.121 and 403.141;

1786 4. Contain such additional conditions, requirements, and  
 1787 restrictions as the department deems necessary to preserve and  
 1788 protect the quality of the receiving waters;

1789 ~~5.4-~~ Be valid for the period of time specified therein; and

1790 ~~6.5-~~ Constitute the state National Pollutant Discharge  
 1791 Elimination System permit when issued pursuant to the authority  
 1792 in s. 403.0885.

1793 (3) No later than March 1 of each year, the department  
 1794 shall submit a report to the Governor, the President of the  
 1795 Senate, and the Speaker of the House of Representatives which  
 1796 identifies all wastewater utilities that experienced a sanitary  
 1797 sewer overflow in the preceding calendar year. The report must  
 1798 identify the utility name, operator, number of overflows, and

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1799 total quantity of discharge released. The department shall  
 1800 include with this report the annual report specified under s.  
 1801 403.088(2)(c)3. for each utility that experienced an overflow.

1802 Section 15. Subsection (6) of section 403.0891, Florida  
 1803 Statutes, is amended to read:

1804 403.0891 State, regional, and local stormwater management  
 1805 plans and programs.—The department, the water management  
 1806 districts, and local governments shall have the responsibility  
 1807 for the development of mutually compatible stormwater management  
 1808 programs.

1809 (6) The department and the Department of Economic  
 1810 Opportunity, in cooperation with local governments in the  
 1811 coastal zone, shall develop a model stormwater management  
 1812 program that could be adopted by local governments. The model  
 1813 program must contain model ordinances that target nutrient  
 1814 reduction practices and use green infrastructure. The model  
 1815 program shall contain dedicated funding options, including a  
 1816 stormwater utility fee system based upon an equitable unit cost  
 1817 approach. Funding options shall be designed to generate capital  
 1818 to retrofit existing stormwater management systems, build new  
 1819 treatment systems, operate facilities, and maintain and service  
 1820 debt.

1821 Section 16. Paragraph (b) of subsection (3) of section  
 1822 403.121, Florida Statutes, is amended to read:

1823 403.121 Enforcement; procedure; remedies.—The department  
 1824 shall have the following judicial and administrative remedies  
 1825 available to it for violations of this chapter, as specified in  
 1826 s. 403.161(1).

1827 (3) Except for violations involving hazardous wastes,

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1828 asbestos, or underground injection, administrative penalties  
 1829 must be calculated according to the following schedule:

1830 (b) For failure to obtain a required wastewater permit,  
 1831 other than a permit required for surface water discharge, the  
 1832 department shall assess a penalty of \$1,000. For a domestic or  
 1833 industrial wastewater violation not involving a surface water or  
 1834 groundwater quality violation, the department shall assess a  
 1835 penalty of \$2,000 for an unpermitted or unauthorized discharge  
 1836 or effluent-limitation exceedance or failure to survey an  
 1837 adequate portion of the wastewater collection system and take  
 1838 steps to reduce sanitary sewer overflows, pipe leaks, and inflow  
 1839 and infiltration. For an unpermitted or unauthorized discharge  
 1840 or effluent-limitation exceedance that resulted in a surface  
 1841 water or groundwater quality violation, the department shall  
 1842 assess a penalty of \$5,000.

1843 Section 17. Subsection (3) is added to section 403.885,  
 1844 Florida Statutes, to read:

1845 403.885 Water Projects Grant Program.—

1846 (3) The department shall give funding priority to grant  
 1847 proposals submitted by a domestic wastewater utility in  
 1848 accordance with s. 403.1835 which implement the requirements of  
 1849 ss. 403.086(7) or 403.088(2)(c).

1850 Section 18. The Legislature determines and declares that  
 1851 this act fulfills an important state interest.

1852 Section 19. Effective July 1, 2021, subsection (5) of  
 1853 section 153.54, Florida Statutes, is amended to read:

1854 153.54 Preliminary report by county commissioners with  
 1855 respect to creation of proposed district.—Upon receipt of a  
 1856 petition duly signed by not less than 25 qualified electors who

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1857 are also freeholders residing within an area proposed to be  
 1858 incorporated into a water and sewer district pursuant to this  
 1859 law and describing in general terms the proposed boundaries of  
 1860 such proposed district, the board of county commissioners if it  
 1861 shall deem it necessary and advisable to create and establish  
 1862 such proposed district for the purpose of constructing,  
 1863 establishing or acquiring a water system or a sewer system or  
 1864 both in and for such district (herein called "improvements"),  
 1865 shall first cause a preliminary report to be made which such  
 1866 report together with any other relevant or pertinent matters,  
 1867 shall include at least the following:

1868 (5) For the construction of a new proposed central sewerage  
 1869 system or the extension of an existing sewerage system that was  
 1870 not previously approved, the report shall include a study that  
 1871 includes the available information from the Department of  
 1872 Environmental Protection Health on the history of onsite sewage  
 1873 treatment and disposal systems currently in use in the area and  
 1874 a comparison of the projected costs to the owner of a typical  
 1875 lot or parcel of connecting to and using the proposed sewerage  
 1876 system versus installing, operating, and properly maintaining an  
 1877 onsite sewage treatment and disposal system that is approved by  
 1878 the Department of Environmental Protection Health and that  
 1879 provides for the comparable level of environmental and health  
 1880 protection as the proposed central sewerage system;  
 1881 consideration of the local authority's obligations or reasonably  
 1882 anticipated obligations for water body cleanup and protection  
 1883 under state or federal programs, including requirements for  
 1884 water bodies listed under s. 303(d) of the Clean Water Act, Pub.  
 1885 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors

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1886 deemed relevant by the local authority.

1887  
 1888 Such report shall be filed in the office of the clerk of the  
 1889 circuit court and shall be open for the inspection of any  
 1890 taxpayer, property owner, qualified elector or any other  
 1891 interested or affected person.

1892 Section 20. Effective July 1, 2021, paragraph (c) of  
 1893 subsection (2) of section 153.73, Florida Statutes, is amended  
 1894 to read:

1895 153.73 Assessable improvements; levy and payment of special  
 1896 assessments.—Any district may provide for the construction or  
 1897 reconstruction of assessable improvements as defined in s.  
 1898 153.52, and for the levying of special assessments upon  
 1899 benefited property for the payment thereof, under ~~the provisions~~  
 1900 ~~of~~ this section.

1901 (2)

1902 (c) For the construction of a new proposed central sewerage  
 1903 system or the extension of an existing sewerage system that was  
 1904 not previously approved, the report shall include a study that  
 1905 includes the available information from the Department of  
 1906 Environmental Protection Health on the history of onsite sewage  
 1907 treatment and disposal systems currently in use in the area and  
 1908 a comparison of the projected costs to the owner of a typical  
 1909 lot or parcel of connecting to and using the proposed sewerage  
 1910 system versus installing, operating, and properly maintaining an  
 1911 onsite sewage treatment and disposal system that is approved by  
 1912 the Department of Environmental Protection Health and that  
 1913 provides for the comparable level of environmental and health  
 1914 protection as the proposed central sewerage system;

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1915 consideration of the local authority's obligations or reasonably  
 1916 anticipated obligations for water body cleanup and protection  
 1917 under state or federal programs, including requirements for  
 1918 water bodies listed under s. 303(d) of the Clean Water Act, Pub.  
 1919 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors  
 1920 deemed relevant by the local authority.

1921 Section 21. Effective July 1, 2021, subsection (2) of  
 1922 section 163.3180, Florida Statutes, is amended to read:

1923 163.3180 Concurrency.—

1924 (2) Consistent with public health and safety, sanitary  
 1925 sewer, solid waste, drainage, adequate water supplies, and  
 1926 potable water facilities shall be in place and available to  
 1927 serve new development no later than the issuance by the local  
 1928 government of a certificate of occupancy or its functional  
 1929 equivalent. Prior to approval of a building permit or its  
 1930 functional equivalent, the local government shall consult with  
 1931 the applicable water supplier to determine whether adequate  
 1932 water supplies to serve the new development will be available no  
 1933 later than the anticipated date of issuance by the local  
 1934 government of a certificate of occupancy or its functional  
 1935 equivalent. A local government may meet the concurrency  
 1936 requirement for sanitary sewer through the use of onsite sewage  
 1937 treatment and disposal systems approved by the Department of  
 1938 Environmental Protection Health to serve new development.

1939 Section 22. Effective July 1, 2021, subsection (3) of  
 1940 section 180.03, Florida Statutes, is amended to read:

1941 180.03 Resolution or ordinance proposing construction or  
 1942 extension of utility; objections to same.—

1943 (3) For the construction of a new proposed central sewerage

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1944 system or the extension of an existing central sewerage system  
 1945 that was not previously approved, the report shall include a  
 1946 study that includes the available information from the  
 1947 Department of Environmental Protection Health on the history of  
 1948 onsite sewage treatment and disposal systems currently in use in  
 1949 the area and a comparison of the projected costs to the owner of  
 1950 a typical lot or parcel of connecting to and using the proposed  
 1951 central sewerage system versus installing, operating, and  
 1952 properly maintaining an onsite sewage treatment and disposal  
 1953 system that is approved by the Department of Environmental  
 1954 Protection Health and that provides for the comparable level of  
 1955 environmental and health protection as the proposed central  
 1956 sewerage system; consideration of the local authority's  
 1957 obligations or reasonably anticipated obligations for water body  
 1958 cleanup and protection under state or federal programs,  
 1959 including requirements for water bodies listed under s. 303(d)  
 1960 of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251  
 1961 et seq.; and other factors deemed relevant by the local  
 1962 authority. The results of such a study shall be included in the  
 1963 resolution or ordinance required under subsection (1).

1964 Section 23. Subsections (2), (3), and (6) of section  
 1965 311.105, Florida Statutes, are amended to read:

1966 311.105 Florida Seaport Environmental Management Committee;  
 1967 permitting; mitigation.—

1968 (2) Each application for a permit authorized pursuant to s.  
 1969 403.061(38) ~~s. 403.061(37)~~ must include:

1970 (a) A description of maintenance dredging activities to be  
 1971 conducted and proposed methods of dredged-material management.

1972 (b) A characterization of the materials to be dredged and

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1973 the materials within dredged-material management sites.

1974 (c) A description of dredged-material management sites and  
1975 plans.

1976 (d) A description of measures to be undertaken, including  
1977 environmental compliance monitoring, to minimize adverse  
1978 environmental effects of maintenance dredging and dredged-  
1979 material management.

1980 (e) Such scheduling information as is required to  
1981 facilitate state supplementary funding of federal maintenance  
1982 dredging and dredged-material management programs consistent  
1983 with beach restoration criteria of the Department of  
1984 Environmental Protection.

1985 (3) Each application for a permit authorized pursuant to s.  
1986 403.061(39) ~~s. 403.061(38)~~ must include the provisions of  
1987 paragraphs (2)(b)-(e) and the following:

1988 (a) A description of dredging and dredged-material  
1989 management and other related activities associated with port  
1990 development, including the expansion of navigation channels,  
1991 dredged-material management sites, port harbors, turning basins,  
1992 harbor berths, and associated facilities.

1993 (b) A discussion of environmental mitigation as is proposed  
1994 for dredging and dredged-material management for port  
1995 development, including the expansion of navigation channels,  
1996 dredged-material management sites, port harbors, turning basins,  
1997 harbor berths, and associated facilities.

1998 (6) Dredged-material management activities authorized  
1999 pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~  
2000 shall be incorporated into port master plans developed pursuant  
2001 to s. 163.3178(2)(k).

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2002 Section 24. Paragraph (d) of subsection (1) of section  
2003 327.46, Florida Statutes, is amended to read:

2004 327.46 Boating-restricted areas.—

2005 (1) Boating-restricted areas, including, but not limited  
2006 to, restrictions of vessel speeds and vessel traffic, may be  
2007 established on the waters of this state for any purpose  
2008 necessary to protect the safety of the public if such  
2009 restrictions are necessary based on boating accidents,  
2010 visibility, hazardous currents or water levels, vessel traffic  
2011 congestion, or other navigational hazards or to protect  
2012 seagrasses on privately owned submerged lands.

2013 (d) Owners of private submerged lands that are adjacent to  
2014 Outstanding Florida Waters, as defined in s. 403.061(28) ~~s.~~  
2015 ~~403.061(27)~~, or an aquatic preserve established under ss.  
2016 258.39-258.399 may request that the commission establish  
2017 boating-restricted areas solely to protect any seagrass and  
2018 contiguous seagrass habitat within their private property  
2019 boundaries from seagrass scarring due to propeller dredging.  
2020 Owners making a request pursuant to this paragraph must  
2021 demonstrate to the commission clear ownership of the submerged  
2022 lands. The commission shall adopt rules to implement this  
2023 paragraph, including, but not limited to, establishing an  
2024 application process and criteria for meeting the requirements of  
2025 this paragraph. Each approved boating-restricted area shall be  
2026 established by commission rule. For marking boating-restricted  
2027 zones established pursuant to this paragraph, owners of  
2028 privately submerged lands shall apply to the commission for a  
2029 uniform waterway marker permit in accordance with ss. 327.40 and  
2030 327.41, and shall be responsible for marking the boating-

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2031 restricted zone in accordance with the terms of the permit.  
 2032 Section 25. Paragraph (d) of subsection (3) of section  
 2033 373.250, Florida Statutes, is amended to read:  
 2034 373.250 Reuse of reclaimed water.—  
 2035 (3)  
 2036 (d) The South Florida Water Management District shall  
 2037 require the use of reclaimed water made available by the  
 2038 elimination of wastewater ocean outfall discharges as provided  
 2039 for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or  
 2040 groundwater when the use of reclaimed water is available; is  
 2041 environmentally, economically, and technically feasible; and is  
 2042 of such quality and reliability as is necessary to the user.  
 2043 Such reclaimed water may also be required in lieu of other  
 2044 alternative sources. In determining whether to require such  
 2045 reclaimed water in lieu of other alternative sources, the water  
 2046 management district shall consider existing infrastructure  
 2047 investments in place or obligated to be constructed by an  
 2048 executed contract or similar binding agreement as of July 1,  
 2049 2011, for the development of other alternative sources.  
 2050 Section 26. Subsection (9) of section 373.414, Florida  
 2051 Statutes, is amended to read:  
 2052 373.414 Additional criteria for activities in surface  
 2053 waters and wetlands.—  
 2054 (9) The department and the governing boards, on or before  
 2055 July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~  
 2056 this section, relying primarily on the existing rules of the  
 2057 department and the water management districts, into the rules  
 2058 governing the management and storage of surface waters. Such  
 2059 rules shall seek to achieve a statewide, coordinated and

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2060 consistent permitting approach to activities regulated under  
 2061 this part. Variations in permitting criteria in the rules of  
 2062 individual water management districts or the department shall  
 2063 only be provided to address differing physical or natural  
 2064 characteristics. Such rules adopted pursuant to this subsection  
 2065 shall include the special criteria adopted pursuant to s.  
 2066 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria  
 2067 adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules  
 2068 shall include a provision requiring that a notice of intent to  
 2069 deny or a permit denial based upon this section shall contain an  
 2070 explanation of the reasons for such denial and an explanation,  
 2071 in general terms, of what changes, if any, are necessary to  
 2072 address such reasons for denial. Such rules may establish  
 2073 exemptions and general permits, if such exemptions and general  
 2074 permits do not allow significant adverse impacts to occur  
 2075 individually or cumulatively. Such rules may require submission  
 2076 of proof of financial responsibility which may include the  
 2077 posting of a bond or other form of surety prior to the  
 2078 commencement of construction to provide reasonable assurance  
 2079 that any activity permitted pursuant to this section, including  
 2080 any mitigation for such permitted activity, will be completed in  
 2081 accordance with the terms and conditions of the permit once the  
 2082 construction is commenced. Until rules adopted pursuant to this  
 2083 subsection become effective, existing rules adopted under this  
 2084 part and rules adopted pursuant to the authority of ss. 403.91-  
 2085 403.929 shall be deemed authorized under this part and shall  
 2086 remain in full force and effect. Neither the department nor the  
 2087 governing boards are limited or prohibited from amending any  
 2088 such rules.

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2089 Section 27. Paragraph (b) of subsection (4) of section  
 2090 373.705, Florida Statutes, is amended to read:  
 2091 373.705 Water resource development; water supply  
 2092 development.—  
 2093 (4)  
 2094 (b) Water supply development projects that meet the  
 2095 criteria in paragraph (a) and that meet one or more of the  
 2096 following additional criteria shall be given first consideration  
 2097 for state or water management district funding assistance:  
 2098 1. The project brings about replacement of existing sources  
 2099 in order to help implement a minimum flow or minimum water  
 2100 level;  
 2101 2. The project implements reuse that assists in the  
 2102 elimination of domestic wastewater ocean outfalls as provided in  
 2103 s. 403.086(10) ~~s. 403.086(9)~~; or  
 2104 3. The project reduces or eliminates the adverse effects of  
 2105 competition between legal users and the natural system.  
 2106 Section 28. Paragraph (f) of subsection (8) of section  
 2107 373.707, Florida Statutes, is amended to read:  
 2108 373.707 Alternative water supply development.—  
 2109 (8)  
 2110 (f) The governing boards shall determine those projects  
 2111 that will be selected for financial assistance. The governing  
 2112 boards may establish factors to determine project funding;  
 2113 however, significant weight shall be given to the following  
 2114 factors:  
 2115 1. Whether the project provides substantial environmental  
 2116 benefits by preventing or limiting adverse water resource  
 2117 impacts.

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2118 2. Whether the project reduces competition for water  
 2119 supplies.  
 2120 3. Whether the project brings about replacement of  
 2121 traditional sources in order to help implement a minimum flow or  
 2122 level or a reservation.  
 2123 4. Whether the project will be implemented by a consumptive  
 2124 use permittee that has achieved the targets contained in a goal-  
 2125 based water conservation program approved pursuant to s.  
 2126 373.227.  
 2127 5. The quantity of water supplied by the project as  
 2128 compared to its cost.  
 2129 6. Projects in which the construction and delivery to end  
 2130 users of reuse water is a major component.  
 2131 7. Whether the project will be implemented by a  
 2132 multijurisdictional water supply entity or regional water supply  
 2133 authority.  
 2134 8. Whether the project implements reuse that assists in the  
 2135 elimination of domestic wastewater ocean outfalls as provided in  
 2136 s. 403.086(10) ~~s. 403.086(9)~~.  
 2137 9. Whether the county or municipality, or the multiple  
 2138 counties or municipalities, in which the project is located has  
 2139 implemented a high-water recharge protection tax assessment  
 2140 program as provided in s. 193.625.  
 2141 Section 29. Subsection (4) of section 373.709, Florida  
 2142 Statutes, is amended to read:  
 2143 373.709 Regional water supply planning.—  
 2144 (4) The South Florida Water Management District shall  
 2145 include in its regional water supply plan water resource and  
 2146 water supply development projects that promote the elimination

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2147 of wastewater ocean outfalls as provided in s. 403.086(10) ~~s.~~  
 2148 ~~403.086(9)~~.

2149 Section 30. Paragraph (k) of subsection (1) of section  
 2150 376.307, Florida Statutes, is amended to read:

2151 376.307 Water Quality Assurance Trust Fund.—

2152 (1) The Water Quality Assurance Trust Fund is intended to  
 2153 serve as a broad-based fund for use in responding to incidents  
 2154 of contamination that pose a serious danger to the quality of  
 2155 groundwater and surface water resources or otherwise pose a  
 2156 serious danger to the public health, safety, or welfare. Moneys  
 2157 in this fund may be used:

2158 (k) For funding activities described in s. 403.086(10) ~~s.~~  
 2159 ~~403.086(9)~~ which are authorized for implementation under the  
 2160 Leah Schad Memorial Ocean Outfall Program.

2161 Section 31. Paragraph (i) of subsection (2), paragraph (b)  
 2162 of subsection (4), paragraph (j) of subsection (7), and  
 2163 paragraph (a) of subsection (9) of section 380.0552, Florida  
 2164 Statutes, are amended to read:

2165 380.0552 Florida Keys Area; protection and designation as  
 2166 area of critical state concern.—

2167 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature  
 2168 to:

2169 (i) Protect and improve the nearshore water quality of the  
 2170 Florida Keys through federal, state, and local funding of water  
 2171 quality improvement projects, including the construction and  
 2172 operation of wastewater management facilities that meet the  
 2173 requirements of ss. 381.0065(4)(1) and 403.086(11) ~~403.086(10)~~,  
 2174 as applicable.

2175 (4) REMOVAL OF DESIGNATION.—

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2176 (b) Beginning November 30, 2010, the state land planning  
 2177 agency shall annually submit a written report to the  
 2178 Administration Commission describing the progress of the Florida  
 2179 Keys Area toward completing the work program tasks specified in  
 2180 commission rules. The land planning agency shall recommend  
 2181 removing the Florida Keys Area from being designated as an area  
 2182 of critical state concern to the commission if it determines  
 2183 that:

2184 1. All of the work program tasks have been completed,  
 2185 including construction of, operation of, and connection to  
 2186 central wastewater management facilities pursuant to s.  
 2187 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage  
 2188 treatment and disposal systems pursuant to s. 381.0065(4)(1);

2189 2. All local comprehensive plans and land development  
 2190 regulations and the administration of such plans and regulations  
 2191 are adequate to protect the Florida Keys Area, fulfill the  
 2192 legislative intent specified in subsection (2), and are  
 2193 consistent with and further the principles guiding development;  
 2194 and

2195 3. A local government has adopted a resolution at a public  
 2196 hearing recommending the removal of the designation.

2197 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,  
 2198 and local agencies and units of government in the Florida Keys  
 2199 Area shall coordinate their plans and conduct their programs and  
 2200 regulatory activities consistent with the principles for guiding  
 2201 development as specified in chapter 27F-8, Florida  
 2202 Administrative Code, as amended effective August 23, 1984, which  
 2203 is adopted and incorporated herein by reference. For the  
 2204 purposes of reviewing the consistency of the adopted plan, or

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2205 any amendments to that plan, with the principles for guiding  
 2206 development, and any amendments to the principles, the  
 2207 principles shall be construed as a whole and specific provisions  
 2208 may not be construed or applied in isolation from the other  
 2209 provisions. However, the principles for guiding development are  
 2210 repealed 18 months from July 1, 1986. After repeal, any plan  
 2211 amendments must be consistent with the following principles:

2212 (j) Ensuring the improvement of nearshore water quality by  
 2213 requiring the construction and operation of wastewater  
 2214 management facilities that meet the requirements of ss.  
 2215 381.0065(4)(1) and s. 403.086(11) ~~403.086(10)~~, as applicable,  
 2216 and by directing growth to areas served by central wastewater  
 2217 treatment facilities through permit allocation systems.

2218 (9) MODIFICATION TO PLANS AND REGULATIONS.—

2219 (a) Any land development regulation or element of a local  
 2220 comprehensive plan in the Florida Keys Area may be enacted,  
 2221 amended, or rescinded by a local government, but the enactment,  
 2222 amendment, or rescission becomes effective only upon approval by  
 2223 the state land planning agency. The state land planning agency  
 2224 shall review the proposed change to determine if it is in  
 2225 compliance with the principles for guiding development specified  
 2226 in chapter 27F-8, Florida Administrative Code, as amended  
 2227 effective August 23, 1984, and must approve or reject the  
 2228 requested changes within 60 days after receipt. Amendments to  
 2229 local comprehensive plans in the Florida Keys Area must also be  
 2230 reviewed for compliance with the following:

2231 1. Construction schedules and detailed capital financing  
 2232 plans for wastewater management improvements in the annually  
 2233 adopted capital improvements element, and standards for the

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2234 construction of wastewater treatment and disposal facilities or  
 2235 collection systems that meet or exceed the criteria in s.  
 2236 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal  
 2237 facilities or s. 381.0065(4)(1) for onsite sewage treatment and  
 2238 disposal systems.

2239 2. Goals, objectives, and policies to protect public safety  
 2240 and welfare in the event of a natural disaster by maintaining a  
 2241 hurricane evacuation clearance time for permanent residents of  
 2242 no more than 24 hours. The hurricane evacuation clearance time  
 2243 shall be determined by a hurricane evacuation study conducted in  
 2244 accordance with a professionally accepted methodology and  
 2245 approved by the state land planning agency.

2246 Section 32. Effective July 1, 2021, subsections (7) and  
 2247 (18) of section 381.006, Florida Statutes, are amended to read:

2248 381.006 Environmental health.—The department shall conduct  
 2249 an environmental health program as part of fulfilling the  
 2250 state's public health mission. The purpose of this program is to  
 2251 detect and prevent disease caused by natural and manmade factors  
 2252 in the environment. The environmental health program shall  
 2253 include, but not be limited to:

2254 ~~(7) An onsite sewage treatment and disposal function.~~

2255 (17)-(18) A food service inspection function for domestic  
 2256 violence centers that are certified by the Department of  
 2257 Children and Families and monitored by the Florida Coalition  
 2258 Against Domestic Violence under part XII of chapter 39 and group  
 2259 care homes as described in subsection (15) ~~(16)~~, which shall be  
 2260 conducted annually and be limited to the requirements in  
 2261 department rule applicable to community-based residential  
 2262 facilities with five or fewer residents.

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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

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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

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2321 which, in the opinion of the qualified contractor, would  
 2322 possibly interfere with or restrict any future repair or  
 2323 modification to the existing system. The report shall conclude  
 2324 with an overall assessment of the fundamental operational  
 2325 condition of the system.

2326 (8) The county health department, in coordination with the  
 2327 department, shall administer any evaluation program on behalf of  
 2328 a county, or a municipality within the county, that has adopted  
 2329 an evaluation program pursuant to this section. In order to  
 2330 administer the evaluation program, the county or municipality,  
 2331 in consultation with the county health department, may develop a  
 2332 reasonable fee schedule to be used solely to pay for the costs  
 2333 of administering the evaluation program. Such a fee schedule  
 2334 shall be identified in the ordinance that adopts the evaluation  
 2335 program. When arriving at a reasonable fee schedule, the  
 2336 estimated annual revenues to be derived from fees may not exceed  
 2337 reasonable estimated annual costs of the program. Fees shall be  
 2338 assessed to the system owner during an inspection and separately  
 2339 identified on the invoice of the qualified contractor. Fees  
 2340 shall be remitted by the qualified contractor to the county  
 2341 health department. The county health department's administrative  
 2342 responsibilities include the following:

2343 (a) Providing a notice to the system owner at least 60 days  
 2344 before the system is due for an evaluation. The notice may  
 2345 include information on the proper maintenance of onsite sewage  
 2346 treatment and disposal systems.

2347 (b) In consultation with the department ~~of Health,~~  
 2348 providing uniform disciplinary procedures and penalties for  
 2349 qualified contractors who do not comply with the requirements of

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2350 the adopted ordinance, including, but not limited to, failure to  
 2351 provide the evaluation report as required in this subsection to  
 2352 the system owner and the county health department. Only the  
 2353 county health department may assess penalties against system  
 2354 owners for failure to comply with the adopted ordinance,  
 2355 consistent with existing requirements of law.

2356 (9)  
 2357 (b) Upon receipt of the notice under paragraph (a), the  
 2358 department ~~of Environmental Protection~~ shall, within existing  
 2359 resources, notify the county or municipality of the potential  
 2360 use of, and access to, program funds under the Clean Water State  
 2361 Revolving Fund or s. 319 of the Clean Water Act, provide  
 2362 guidance in the application process to receive such moneys, and  
 2363 provide advice and technical assistance to the county or  
 2364 municipality on how to establish a low-interest revolving loan  
 2365 program or how to model a revolving loan program after the low-  
 2366 interest loan program of the Clean Water State Revolving Fund.  
 2367 This paragraph does not obligate the department ~~of Environmental~~  
 2368 ~~Protection~~ to provide any county or municipality with money to  
 2369 fund such programs.

2370 (c) The department ~~of Health~~ may not adopt any rule that  
 2371 alters ~~the provisions of~~ this section.

2372 (d) The department ~~of Health~~ must allow county health  
 2373 departments and qualified contractors access to the  
 2374 environmental health database to track relevant information and  
 2375 assimilate data from assessment and evaluation reports of the  
 2376 overall condition of onsite sewage treatment and disposal  
 2377 systems. The environmental health database must be used by  
 2378 contractors to report each service and evaluation event and by a

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2379 county health department to notify owners of onsite sewage  
2380 treatment and disposal systems when evaluations are due. Data  
2381 and information must be recorded and updated as service and  
2382 evaluations are conducted and reported.

2383 Section 36. Section 403.08601, Florida Statutes, is amended  
2384 to read:

2385 403.08601 Leah Schad Memorial Ocean Outfall Program.—The  
2386 Legislature declares that as funds become available the state  
2387 may assist the local governments and agencies responsible for  
2388 implementing the Leah Schad Memorial Ocean Outfall Program  
2389 pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from  
2390 other sources provided for in law, the General Appropriations  
2391 Act, from gifts designated for implementation of the plan from  
2392 individuals, corporations, or other entities, or federal funds  
2393 appropriated by Congress for implementation of the plan, may be  
2394 deposited into an account of the Water Quality Assurance Trust  
2395 Fund.

2396 Section 37. Section 403.0871, Florida Statutes, is amended  
2397 to read:

2398 403.0871 Florida Permit Fee Trust Fund.—There is  
2399 established within the department a nonlapsing trust fund to be  
2400 known as the "Florida Permit Fee Trust Fund." All funds received  
2401 from applicants for permits pursuant to ss. 161.041, 161.053,  
2402 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7) (a) shall be  
2403 deposited in the Florida Permit Fee Trust Fund and shall be used  
2404 by the department with the advice and consent of the Legislature  
2405 to supplement appropriations and other funds received by the  
2406 department for the administration of its responsibilities under  
2407 this chapter and chapter 161. In no case shall funds from the

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2408 Florida Permit Fee Trust Fund be used for salary increases  
2409 without the approval of the Legislature.

2410 Section 38. Paragraph (a) of subsection (11) of section  
2411 403.0872, Florida Statutes, is amended to read:

2412 403.0872 Operation permits for major sources of air  
2413 pollution; annual operation license fee.—Provided that program  
2414 approval pursuant to 42 U.S.C. s. 7661a has been received from  
2415 the United States Environmental Protection Agency, beginning  
2416 January 2, 1995, each major source of air pollution, including  
2417 electrical power plants certified under s. 403.511, must obtain  
2418 from the department an operation permit for a major source of  
2419 air pollution under this section. This operation permit is the  
2420 only department operation permit for a major source of air  
2421 pollution required for such source; provided, at the applicant's  
2422 request, the department shall issue a separate acid rain permit  
2423 for a major source of air pollution that is an affected source  
2424 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits  
2425 for major sources of air pollution, except general permits  
2426 issued pursuant to s. 403.814, must be issued in accordance with  
2427 the procedures contained in this section and in accordance with  
2428 chapter 120; however, to the extent that chapter 120 is  
2429 inconsistent with ~~the provisions of~~ this section, the procedures  
2430 contained in this section prevail.

2431 (11) Each major source of air pollution permitted to  
2432 operate in this state must pay between January 15 and April 1 of  
2433 each year, upon written notice from the department, an annual  
2434 operation license fee in an amount determined by department  
2435 rule. The annual operation license fee shall be terminated  
2436 immediately in the event the United States Environmental

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2437 Protection Agency imposes annual fees solely to implement and  
 2438 administer the major source air-operation permit program in  
 2439 Florida under 40 C.F.R. s. 70.10(d).

2440 (a) The annual fee must be assessed based upon the source's  
 2441 previous year's emissions and must be calculated by multiplying  
 2442 the applicable annual operation license fee factor times the  
 2443 tons of each regulated air pollutant actually emitted, as  
 2444 calculated in accordance with the department's emissions  
 2445 computation and reporting rules. The annual fee shall only apply  
 2446 to those regulated pollutants, except carbon monoxide and  
 2447 greenhouse gases, for which an allowable numeric emission  
 2448 limiting standard is specified in the source's most recent  
 2449 construction or operation permit; provided, however, that:

2450 1. The license fee factor is \$25 or another amount  
 2451 determined by department rule which ensures that the revenue  
 2452 provided by each year's operation license fees is sufficient to  
 2453 cover all reasonable direct and indirect costs of the major  
 2454 stationary source air-operation permit program established by  
 2455 this section. The license fee factor may be increased beyond \$25  
 2456 only if the secretary of the department affirmatively finds that  
 2457 a shortage of revenue for support of the major stationary source  
 2458 air-operation permit program will occur in the absence of a fee  
 2459 factor adjustment. The annual license fee factor may never  
 2460 exceed \$35.

2461 2. The amount of each regulated air pollutant in excess of  
 2462 4,000 tons per year emitted by any source, or group of sources  
 2463 belonging to the same Major Group as described in the Standard  
 2464 Industrial Classification Manual, 1987, may not be included in  
 2465 the calculation of the fee. Any source, or group of sources,

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2466 which does not emit any regulated air pollutant in excess of  
 2467 4,000 tons per year, is allowed a one-time credit not to exceed  
 2468 25 percent of the first annual licensing fee for the prorated  
 2469 portion of existing air-operation permit application fees  
 2470 remaining upon commencement of the annual licensing fees.

2471 3. If the department has not received the fee by March 1 of  
 2472 the calendar year, the permittee must be sent a written warning  
 2473 of the consequences for failing to pay the fee by April 1. If  
 2474 the fee is not postmarked by April 1 of the calendar year, the  
 2475 department shall impose, in addition to the fee, a penalty of 50  
 2476 percent of the amount of the fee, plus interest on such amount  
 2477 computed in accordance with s. 220.807. The department may not  
 2478 impose such penalty or interest on any amount underpaid,  
 2479 provided that the permittee has timely remitted payment of at  
 2480 least 90 percent of the amount determined to be due and remits  
 2481 full payment within 60 days after receipt of notice of the  
 2482 amount underpaid. The department may waive the collection of  
 2483 underpayment and may ~~shall~~ not be required to refund overpayment  
 2484 of the fee, if the amount due is less than 1 percent of the fee,  
 2485 up to \$50. The department may revoke any major air pollution  
 2486 source operation permit if it finds that the permitholder has  
 2487 failed to timely pay any required annual operation license fee,  
 2488 penalty, or interest.

2489 4. Notwithstanding the computational provisions of this  
 2490 subsection, the annual operation license fee for any source  
 2491 subject to this section may ~~shall~~ not be less than \$250, except  
 2492 that the annual operation license fee for sources permitted  
 2493 solely through general permits issued under s. 403.814 may ~~shall~~  
 2494 not exceed \$50 per year.

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2495 5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes  
 2496 ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air  
 2497 pollution construction permit fees, the department may not  
 2498 require such fees for changes or additions to a major source of  
 2499 air pollution permitted pursuant to this section, unless the  
 2500 activity triggers permitting requirements under Title I, Part C  
 2501 or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-  
 2502 7514a. Costs to issue and administer such permits shall be  
 2503 considered direct and indirect costs of the major stationary  
 2504 source air-operation permit program under s. 403.0873. The  
 2505 department shall, however, require fees pursuant to s.  
 2506 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the  
 2507 construction of a new major source of air pollution that will be  
 2508 subject to the permitting requirements of this section once  
 2509 constructed and for activities triggering permitting  
 2510 requirements under Title I, Part C or Part D, of the federal  
 2511 Clean Air Act, 42 U.S.C. ss. 7470-7514a.

2512 Section 39. Subsection (7) of section 403.1835, Florida  
 2513 Statutes, is amended to read:

2514 403.1835 Water pollution control financial assistance.—

2515 (7) Eligible projects must be given priority according to  
 2516 the extent each project is intended to remove, mitigate, or  
 2517 prevent adverse effects on surface or ground water quality and  
 2518 public health. The relative costs of achieving environmental and  
 2519 public health benefits must be taken into consideration during  
 2520 the department's assignment of project priorities. The  
 2521 department shall adopt a priority system by rule. In developing  
 2522 the priority system, the department shall give priority to  
 2523 projects that:

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2524 (a) Eliminate public health hazards;

2525 (b) Enable compliance with laws requiring the elimination  
 2526 of discharges to specific water bodies, including the  
 2527 requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic  
 2528 wastewater ocean outfalls;

2529 (c) Assist in the implementation of total maximum daily  
 2530 loads adopted under s. 403.067;

2531 (d) Enable compliance with other pollution control  
 2532 requirements, including, but not limited to, toxics control,  
 2533 wastewater residuals management, and reduction of nutrients and  
 2534 bacteria;

2535 (e) Assist in the implementation of surface water  
 2536 improvement and management plans and pollutant load reduction  
 2537 goals developed under state water policy;

2538 (f) Promote reclaimed water reuse;

2539 (g) Eliminate failing onsite sewage treatment and disposal  
 2540 systems or those that are causing environmental damage; or  
 2541 (h) Reduce pollutants to and otherwise promote the  
 2542 restoration of Florida's surface and ground waters.

2543 Section 40. Paragraph (d) of subsection (3) of section  
 2544 403.707, Florida Statutes, is amended to read:

2545 403.707 Permits.—

2546 (3)

2547 (d) The department may adopt rules to administer this  
 2548 subsection. However, the department is not required to submit  
 2549 such rules to the Environmental Regulation Commission for  
 2550 approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s.~~  
 2551 ~~403.087(6)(a)~~, permit fee caps for solid waste management  
 2552 facilities shall be prorated to reflect the extended permit term

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2553 authorized by this subsection.

2554 Section 41. Subsections (8) and (21) of section 403.861,  
2555 Florida Statutes, are amended to read:

2556 403.861 Department; powers and duties.—The department shall  
2557 have the power and the duty to carry out the provisions and  
2558 purposes of this act and, for this purpose, to:

2559 (8) Initiate rulemaking to increase each drinking water  
2560 permit application fee authorized under s. 403.087(7) ~~s-~~  
2561 ~~403.087(6)~~ and this part and adopted by rule to ensure that such  
2562 fees are increased to reflect, at a minimum, any upward  
2563 adjustment in the Consumer Price Index compiled by the United  
2564 States Department of Labor, or similar inflation indicator,  
2565 since the original fee was established or most recently revised.

2566 (a) The department shall establish by rule the inflation  
2567 index to be used for this purpose. The department shall review  
2568 the drinking water permit application fees authorized under s.  
2569 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5  
2570 years and shall adjust the fees upward, as necessary, within the  
2571 established fee caps to reflect changes in the Consumer Price  
2572 Index or similar inflation indicator. In the event of deflation,  
2573 the department shall consult with the Executive Office of the  
2574 Governor and the Legislature to determine whether downward fee  
2575 adjustments are appropriate based on the current budget and  
2576 appropriation considerations. The department shall also review  
2577 the drinking water operation license fees established pursuant  
2578 to paragraph (7) (b) at least once every 5 years to adopt, as  
2579 necessary, the same inflationary adjustments provided for in  
2580 this subsection.

2581 (b) The minimum fee amount shall be the minimum fee

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2582 prescribed in this section, and such fee amount shall remain in  
2583 effect until the effective date of fees adopted by rule by the  
2584 department.

2585 (21) (a) Upon issuance of a construction permit to construct  
2586 a new public water system drinking water treatment facility to  
2587 provide potable water supply using a surface water that, at the  
2588 time of the permit application, is not being used as a potable  
2589 water supply, and the classification of which does not include  
2590 potable water supply as a designated use, the department shall  
2591 add treated potable water supply as a designated use of the  
2592 surface water segment in accordance with s. 403.061(30) (b) ~~s-~~  
2593 ~~403.061(29) (b)~~.

2594 (b) For existing public water system drinking water  
2595 treatment facilities that use a surface water as a treated  
2596 potable water supply, which surface water classification does  
2597 not include potable water supply as a designated use, the  
2598 department shall add treated potable water supply as a  
2599 designated use of the surface water segment in accordance with  
2600 s. 403.061(30) (b) ~~s. 403.061(29) (b)~~.

2601 Section 42. Effective July 1, 2021, subsection (1) of  
2602 section 489.551, Florida Statutes, is amended to read:

2603 489.551 Definitions.—As used in this part:

2604 (1) "Department" means the Department of Environmental  
2605 Protection Health.

2606 Section 43. Paragraph (b) of subsection (10) of section  
2607 590.02, Florida Statutes, is amended to read:

2608 590.02 Florida Forest Service; powers, authority, and  
2609 duties; liability; building structures; Withlacoochee Training  
2610 Center.—

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2611 (10)

2612 (b) The Florida Forest Service may delegate to a county,  
2613 municipality, or special district its authority:

2614 1. As delegated by the Department of Environmental  
2615 Protection pursuant to ~~ss. 403.061(29)~~ ~~ss. 403.061(28)~~ and  
2616 403.081, to manage and enforce regulations pertaining to the  
2617 burning of yard trash in accordance with s. 590.125(6).

2618 2. To manage the open burning of land clearing debris in  
2619 accordance with s. 590.125.

2620 Section 44. The Division of Law Revision is directed to  
2621 replace the phrase "adoption of the rules identified in  
2622 paragraph (e)" as it is used in the amendment made by this act  
2623 to s. 381.0065, Florida Statutes, with the date such rules are  
2624 adopted, as provided by the Department of Environmental  
2625 Protection pursuant to s. 381.0065(4)(e), Florida Statutes, as  
2626 amended by this act.

2627 Section 45. Except as otherwise expressly provided in this  
2628 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,

A handwritten signature in blue ink that reads "Debbie Mayfield".

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](http://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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THE FLORIDA SENATE  
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2/20/20

Meeting Date

712

Bill Number (if applicable)

→ (413536)  
PCS  
Amendment Barcode (if applicable)

Topic Water Quality

Name Laura Donaldson

Job Title \_\_\_\_\_

Address 109 N. Brush St., Suite 300

Phone 813-514-4700

Street

Tampa,

City

FL

State

33602

Zip

Email Ldonaldson@  
mansonhatives.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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2/20/20

Meeting Date

712

Bill Number (if applicable)

412518

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Kellie Ralston

Job Title SE Fisheries Policy Director

Address 9167 Shoal Creek

Street

Phone 9045533733

Tallahassee

FL

32312

Email kralstoneasafishing.org

City

State

Zip

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**

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2/20/20  
Meeting Date

712

PCS 413536  
Bill Number (if applicable)

412518

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Bruce Roberts

Job Title \_\_\_\_\_

Address 4354 ne Skyline Dr.

Phone 801 971-1216

Jensen Beach FL 34957  
City State Zip

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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THE FLORIDA SENATE  
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2/20/20

Meeting Date

712

Bill Number (if applicable)

412518

Amendment Barcode (if applicable)

Topic Environmental Resource Management

Name Jon Steverson

Job Title Public Affairs Director

Address 106 E. College Ave.

Street

Phone (850) 222-6100

Tallahassee FL 32301

City

State

Zip

Email jsteverson@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

Phone 850/321-9352

TALLAHASSEE FL 32308  
City State Zip

Email TERRY@THE-TRAILER.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**

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2/20/20  
(Meeting Date)

712  
Bill Number (if applicable)

Topic Water Quality

Amendment Barcode (if applicable)

Name Gerry Miller

Job Title \_\_\_\_\_

Address 462 Grove and Hills Dr.

Phone 850-656-6636

Tallahassee FL  
City State Zip

Email gerrymiller2@comcast.net

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

712

Bill Number (if applicable)

Topic Water Quality

Amendment Barcode (if applicable)

Name Sean McGlynn

Job Title Laboratory Director

Address 568 Beverly Ct

Phone 880 370 1476

Street

Tallahassee, FL, 32301

City

State

Zip

Email mglynnlabs@gmail.com

Speaking:  For  Against  Information

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

Representing Wdolla 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**

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2-20-20

Meeting Date

SB 712

Bill Number (if applicable)

Topic Water & Preemption

Amendment Barcode (if applicable)

Name Merrilee Malwitz-Tipson

Job Title Our Santa Fe River  
owner, Rum 138-recreational tourism business

Address Riparian owner, Santa Fe River  
2070 SW County Rd 138

Phone 352-222-8893

Fort White, FL 32038

City

State

Zip

Email Merrilee.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**

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2-20-20

Meeting Date

SB 712  
Bill Number (if applicable)

Topic WATER + PREEMPTION

Amendment Barcode (if applicable)

Name MICHAEL ROTH

Job Title MES. - OUR SANTA FE RIVER

Address 846 NE 120 TRAIL

Phone 352-316-4705

Street

BRANFORD

City

FL

State

32008

Zip

Email MIKULROTH@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

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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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

Phone 352 213 3916

Tampa FL 33604  
City State Zip

Email jim@jimtatum.net

Speaking:  For  Against  Information

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

Representing Out Santa Fe River, Inc Fort White

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2/20/20

Meeting Date

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.

Phone 352-465-2828

Street

DUNHELLON FL 34432

Email BURTENO@BELLSOUTH.NET

City

State

Zip

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

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

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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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

*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

SB 712

Bill Number (if applicable)

Topic SB 712

Amendment Barcode (if applicable)

Name Rene Vaughn

Job Title Dental tech

Address 511 SE 73<sup>rd</sup> Terr  
Street

Phone (352) 226-6495

Gainesville  
City

FL  
State

32641  
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

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/20/20  
Meeting Date

SR 712  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Brenda Wells

Job Title Communications

Address 7317 NW 21st Way  
Street

Phone 352-281-4255

Gainesville FL 32653  
City State Zip

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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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)

Topic Clean Waterways Act

Amendment Barcode (if applicable)

Name Savannah Vrana

Job Title Programmer

Address 7542 Sun Tree Circle apt #126  
Street

Phone (407) 334-6046

Orlando FL 32907  
City State Zip

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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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 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

Phone 352 467 0800

Ocala FL 34481  
City State Zip

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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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 Beach FL 32250  
City State Zip

Email Smart@42lejroad.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

712  
Bill Number (if applicable)

Topic CLEAN WATERWAYS

Amendment Barcode (if applicable)

Name KURT SPITZER

Job Title

Address 693 FOREST LANE

850-228-6212  
Phone

TLH 32312  
City State Zip

KSPITZER@KSANET.NET  
Email

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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THE FLORIDA SENATE

APPEARANCE RECORD

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

7/20/20  
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

Phone 222-2337

Tallahassee FL 32301  
City State Zip

Email adam.basford@fla.gov

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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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

FL 32302  
City State Zip

Email Jim@magnumstatistics.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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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 Improvements

Amendment Barcode (if applicable)

Name Jonathan Webber

Job Title Deputy Director

Address 1700 N. Monroe St #11-280

Phone 954-593-4449

Street  
Tallahassee FL 32303  
City State Zip

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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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

Phone 8502221400

Street

tallahassee

fl

32312

Email -

City

State

Zip

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 Bree Roberts

Job Title \_\_\_\_\_

Address 4354 ne Skyline Dr.

Phone 801 971-1216

Street

Jensen Beach

FL

34957

Email breebrotts1926@gmail.com

City

State

Zip

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)

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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**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 Improvement

Amendment Barcode (if applicable)

Name Christopher Emmanuel

Job Title Policy Director

Address 130 S. Brandy

Phone \_\_\_\_\_

Street

TLC

City

FL

State

32301

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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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

Amendment Barcode (if applicable)

Name SEX & BOYS CLUB COMPANY FLORIDA

Job Title OWNER JAMES ORR

Address 2908 HWY 21

Phone 904 415 3221

Street

City

M.C.B.

FL

State

32068

Zip

Email SEXBOYS2@GMAIL.COM

Speaking:  For  Against  Information

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

Representing SEX TOYS CLUB

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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

702  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title \_\_\_\_\_

Address 104-2 Crest St  
Street

Phone 941-323-2404

JLN FL 32301  
City State Zip

Email cullenasea@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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THE FLORIDA SENATE

APPEARANCE RECORD

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2/20/20  
Meeting Date

SB712  
Bill Number (if applicable)

Topic ~~BMAP/Batt~~ <sup>rights of Nature</sup>  
Name KRISTIN RUBIN

Amendment Barcode (if applicable)

Job Title

Address 28280 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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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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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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**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**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.	<u>Williams</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
3.	<u>Betta</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup>

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.<sup>2</sup> Before making sales or shipping orders, entities must provide specific notice to the division as to shipper and receiver, with monthly reporting.<sup>3</sup> There are requirements specific to purchase orders.<sup>4</sup>

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:<sup>5</sup>

- 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,

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<sup>1</sup> Section 210.095(5), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 210.095(6), F.S.

<sup>4</sup> Section 210.095(7), F.S.

<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup>

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.<sup>8</sup>

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.<sup>9</sup> 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

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<sup>6</sup> See *supra*, notes 10, 11, and 14 and accompanying text.

<sup>7</sup> Section 569.007(1), F.S.

<sup>8</sup> Section 569.007(2) and (3), F.S.

<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> A second or subsequent violation within one year of the first violation is a first degree misdemeanor.<sup>12</sup>

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<sup>13</sup> upon which the person relied in good faith.<sup>14</sup>

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.<sup>15</sup>

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.<sup>16</sup>

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

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<sup>10</sup> Section 569.008(3), F.S.

<sup>11</sup> *Supra* note 5.

<sup>12</sup> 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.

<sup>13</sup> 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.

<sup>14</sup> Section 569.101(3), F.S.

<sup>15</sup> Section 569.11(1), F.S.

<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup> 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.<sup>19</sup>

### **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.<sup>20</sup>

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<sup>17</sup> Section 569.14, F.S.

<sup>18</sup> Section 386.212(1), F.S.

<sup>19</sup> Section 386.212(3), F.S.

<sup>20</sup> 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.<sup>21</sup> 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.

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<sup>21</sup> 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 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 the linked

bill, CS/CS/SB 1394, which amends the definition for the term “tobacco products” to include vapor-generating electronic devices.

**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.<sup>22</sup>)

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.

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<sup>22</sup> *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.<sup>23</sup>

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.<sup>24</sup>

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<sup>23</sup> Department of Business and Professional Regulation, *Senate Bill 810 Analysis* (December 9, 2019) (on file with the Senate Committee on Innovation, Industry, and Technology).

<sup>24</sup> 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.<sup>25</sup> 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.<sup>26</sup>

<sup>25</sup> 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](https://www.tobaccofreekids.org/assets/content/what_we_do/state_local_issues/sales_21/states_localities_MLSA_21.pdf) (last visited Jan. 25, 2020).

<sup>26</sup> 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



11 real property comprising a public or private elementary, middle,  
12 or secondary school ~~between the hours of 6 a.m. and midnight.~~  
13 This section does not apply to any person occupying a moving  
14 vehicle or within a private residence.

15 (3) Any person issued a citation pursuant to this section  
16 shall be deemed to be charged with a civil infraction punishable  
17 by a maximum civil penalty not to exceed \$25, or 50 hours of  
18 community service and, for persons under 18 years of age or,  
19 ~~where available,~~ successful completion of a school-approved  
20 anti-tobacco or anti-vaping "alternative to suspension" program.

21 Section 3. Present subsections (3) through (6) of section  
22 569.002, Florida Statutes, are redesignated as subsections (4)  
23 through (7), respectively, a new subsection (3) is added to that  
24 section, and present subsections (6) and (7) of section 569.002,  
25 Florida Statutes, are amended to read:

26 569.002 Definitions.—As used in this chapter, the term:

27 (3) "Liquid nicotine product" means a tobacco product in  
28 liquid form composed of nicotine and other chemicals or  
29 substances which is sold or offered for sale for use with a  
30 vapor-generating electronic device.

31 (7)~~(6)~~ "Tobacco products" includes:

32 (a) Any product containing, made of, or derived from  
33 tobacco or nicotine that is intended for human consumption or is  
34 likely to be consumed, whether inhaled, absorbed, or ingested by  
35 any other means, including, but not limited to, a cigarette, a  
36 cigar, pipe tobacco, chewing tobacco, snuff, or snus; or

37 (b) Any component, part, or accessory of a product  
38 described in paragraph (a), whether or not any of these contain  
39 tobacco or nicotine, including, but not limited to, filters,





40 rolling papers, blunt or hemp wraps, and pipes.

41  
42 The term does not include drugs, devices, or combination  
43 products authorized for sale by the United States Food and Drug  
44 Administration, as those terms are defined in the Federal Food,  
45 Drug, and Cosmetic Act ~~loose tobacco leaves, and products made~~  
46 ~~from tobacco leaves, in whole or in part, and cigarette~~  
47 ~~wrappers, which can be used for smoking, sniffing, or chewing.~~

48 ~~(7) "Any person under the age of 18" does not include any~~  
49 ~~person under the age of 18 who:~~

50 ~~(a) Has had his or her disability of nonage removed under~~  
51 ~~chapter 743;~~

52 ~~(b) Is in the military reserve or on active duty in the~~  
53 ~~Armed Forces of the United States;~~

54 ~~(c) Is otherwise emancipated by a court of competent~~  
55 ~~jurisdiction and released from parental care and responsibility;~~  
56 ~~or~~

57 ~~(d) Is acting in his or her scope of lawful employment with~~  
58 ~~an entity licensed under the provisions of chapter 210 or this~~  
59 ~~chapter.~~

60 Section 4. Paragraph (a) of subsection (2) of section  
61 569.003, Florida Statutes, is amended to read:

62 569.003 Retail tobacco products dealer permits;  
63 application; qualifications; fees; renewal; duplicates.—

64 (2) (a) Permits may be issued only to persons who are 21 ~~18~~  
65 years of age or older or to corporations the officers of which  
66 are 21 ~~18~~ years of age or older.

67 Section 5. Subsections (1) and (2) of section 569.007,  
68 Florida Statutes, are amended, and a new subsection (5) is added



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69 to that section, to read:

70 569.007 Sale or delivery of tobacco products;  
71 restrictions.—

72 (1) (a) In order to prevent persons under 21 ~~18~~ years of age  
73 from purchasing or receiving tobacco products, the sale or  
74 delivery of tobacco products is prohibited, except:

75 1. ~~(a)~~ When under the direct control or line of sight of the  
76 dealer or the dealer's agent or employee; or

77 2. ~~(b)~~ Sales from a vending machine are prohibited under  
78 subparagraph 1. the provisions of paragraph (1) (a) and are only  
79 permissible from a machine that is located in an establishment  
80 that prohibits persons under 21 years of age on the licensed  
81 premises at all times.

82 (b) Sales of vapor-generating electronic devices and liquid  
83 nicotine products, other than as authorized under subparagraph  
84 (a)1., are permissible only if a dealer implements an age  
85 verification procedure that:

86 1. Before accepting an order for delivery, verifies that  
87 the purchaser is at least 21 years of age using a commercially  
88 available database, or an aggregate of databases, which is  
89 regularly used for the purpose of age and identify verification;  
90 and

91 2. Employs a second-step age verification to secure  
92 delivery for every order by requiring the signature of the  
93 purchaser upon delivery and verifying that the credit card or  
94 debit card used for the purchase has been issued in the  
95 purchaser's name and that the delivery address is associated  
96 with the purchaser's credit card or debit card ~~equipped with an~~  
97 ~~operational lockout device which is under the control of the~~



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98 ~~dealer or the dealer's agent or employee who directly regulates~~  
99 ~~the sale of items through the machine by triggering the lockout~~  
100 ~~device to allow the dispensing of one tobacco product. The~~  
101 ~~lockout device must include a mechanism to prevent the machine~~  
102 ~~from functioning if the power source for the lockout device~~  
103 ~~fails or if the lockout device is disabled, and a mechanism to~~  
104 ~~ensure that only one tobacco product is dispensed at a time.~~

105 ~~(2) The provisions of subsection (1) shall not apply to an~~  
106 ~~establishment that prohibits persons under 18 years of age on~~  
107 ~~the licensed premises.~~

108 (5) (a) A person may not sell, deliver, barter, furnish, or  
109 give, directly or indirectly, flavored liquid nicotine products  
110 to any other person. For the purposes of this subsection, the  
111 term "flavored liquid nicotine product" means a liquid nicotine  
112 product containing a natural or artificial constituent or  
113 additive that causes the liquid or its vapor to have a  
114 distinguishable taste or aroma other than tobacco or menthol,  
115 including, but not limited to, fruit, chocolate, vanilla, honey,  
116 candy, cocoa, a dessert, an alcoholic beverage, an herb or  
117 spice, or any combination thereof.

118 (b) This subsection does not apply to the sale, shipment,  
119 or transport of any product that receives a marketing order  
120 issued by the United States Food and Drug Administration under  
121 21 U.S.C. s. 387j.

122 Section 6. Section 569.101, Florida Statutes, is amended to  
123 read:

124 569.101 Selling, delivering, bartering, furnishing, or  
125 giving tobacco products to persons under 21 ~~18~~ years of age;  
126 criminal penalties; defense.-



127 (1) It is unlawful to sell, deliver, barter, furnish, or  
128 give, directly or indirectly, to any person who is under 21 ~~18~~  
129 years of age, any tobacco product.

130 (2) Any person who violates subsection (1) commits a  
131 misdemeanor of the second degree, punishable as provided in s.  
132 775.082 or s. 775.083. However, any person who violates  
133 subsection (1) for a second or subsequent time within 1 year of  
134 the first violation, commits a misdemeanor of the first degree,  
135 punishable as provided in s. 775.082 or s. 775.083.

136 (3) A person charged with a violation of subsection (1) has  
137 a complete defense if, at the time the tobacco product was sold,  
138 delivered, bartered, furnished, or given:

139 (a) The buyer or recipient falsely evidenced that she or he  
140 was 21 ~~18~~ years of age or older;

141 (b) The appearance of the buyer or recipient was such that  
142 a prudent person would believe the buyer or recipient to be 21  
143 ~~18~~ years of age or older; and

144 (c) Such person carefully checked a driver license or an  
145 identification card issued by this state or another state of the  
146 United States, a passport, or a United States armed services  
147 identification card presented by the buyer or recipient and  
148 acted in good faith and in reliance upon the representation and  
149 appearance of the buyer or recipient in the belief that the  
150 buyer or recipient was 21 ~~18~~ years of age or older.

151 (4) A person must verify by means of identification  
152 specified in paragraph (3)(c) that a person purchasing a tobacco  
153 product is not under 21 years of age. Such verification is not  
154 required for any person over the age of 29.

155 Section 7. Section 569.11, Florida Statutes, is amended to



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156 read:

157 569.11 Possession, misrepresenting age ~~or military service~~  
158 to purchase, and purchase of tobacco products by persons under  
159 21 ~~18~~ years of age prohibited; penalties; jurisdiction;  
160 disposition of fines.—

161 (1) It is unlawful for any person under 21 ~~18~~ years of age  
162 to knowingly possess any tobacco product. Any person under 21 ~~18~~  
163 years of age who violates this subsection commits a noncriminal  
164 violation as provided in s. 775.08(3), punishable by:

165 (a) For a first violation, 16 hours of community service  
166 or, instead of community service, a \$25 fine. In addition, if  
167 the person is under 18 years of age, the person must attend a  
168 school-approved anti-vaping or anti-tobacco program, ~~if locally~~  
169 ~~available;~~ or

170 (b) For a second or subsequent violation within 12 weeks  
171 after the first violation, a \$25 fine.

172

173 Any second or subsequent violation not within the 12-week period  
174 after the first violation is punishable as provided for a first  
175 violation.

176 (2) It is unlawful for any person under 21 ~~18~~ years of age  
177 to misrepresent his or her age ~~or military service~~ for the  
178 purpose of inducing a dealer or an agent or employee of the  
179 dealer to sell, give, barter, furnish, or deliver any tobacco  
180 product, or to purchase, or attempt to purchase, any tobacco  
181 product from a person or a vending machine. Any person under 21  
182 ~~18~~ years of age who violates this subsection commits a  
183 noncriminal violation as provided in s. 775.08(3), punishable  
184 by:



185 (a) For a first violation, 16 hours of community service  
186 or, instead of community service, a \$25 fine and, in addition,  
187 if the person is under 18 years of age, the person must attend a  
188 school-approved anti-vaping or anti-tobacco program,~~if~~  
189 ~~available;~~ or

190 (b) For a second or subsequent violation within 12 weeks  
191 after the first violation, a \$25 fine.

192  
193 Any second or subsequent violation not within the 12-week period  
194 after the first violation is punishable as provided for a first  
195 violation.

196 (3) Any person under 21 ~~18~~ years of age cited for  
197 committing a noncriminal violation under this section must sign  
198 and accept a civil citation indicating a promise to appear  
199 before the county court or comply with the requirement for  
200 paying the fine and, if the person is under 18 years of age,  
201 must attend a school-approved anti-vaping or anti-tobacco  
202 program,~~if locally available.~~ If a fine is assessed for a  
203 violation of this section, the fine must be paid within 30 days  
204 after the date of the citation or, if a court appearance is  
205 mandatory, within 30 days after the date of the hearing.

206 (4) A person charged with a noncriminal violation under  
207 this section must appear before the county court or comply with  
208 the requirement for paying the fine. The court, after a hearing,  
209 shall make a determination as to whether the noncriminal  
210 violation was committed. If the court finds the violation was  
211 committed, it shall impose an appropriate penalty as specified  
212 in subsection (1) or subsection (2). A person who participates  
213 in community service shall be considered an employee of the



214 state for the purpose of chapter 440, for the duration of such  
215 service.

216 (5) (a) If a person under 21 ~~18~~ years of age is found by the  
217 court to have committed a noncriminal violation under this  
218 section and that person has failed to complete community  
219 service, pay the fine as required by paragraph (1) (a) or  
220 paragraph (2) (a), or, if the person is under 18 years of age,  
221 attend a school-approved anti-vaping or anti-tobacco program,~~if~~  
222 ~~locally available,~~ the court may direct the Department of  
223 Highway Safety and Motor Vehicles to withhold issuance of or  
224 suspend the driver license or driving privilege of that person  
225 for a period of 30 consecutive days.

226 (b) If a person under 21 ~~18~~ years of age is found by the  
227 court to have committed a noncriminal violation under this  
228 section and that person has failed to pay the applicable fine as  
229 required by paragraph (1) (b) or paragraph (2) (b), the court may  
230 direct the Department of Highway Safety and Motor Vehicles to  
231 withhold issuance of or suspend the driver license or driving  
232 privilege of that person for a period of 45 consecutive days.

233 (6) Eighty percent of all civil penalties received by a  
234 county court pursuant to this section shall be remitted by the  
235 clerk of the court to the Department of Revenue for transfer to  
236 the Department of Education to provide for teacher training and  
237 for research and evaluation to reduce and prevent the use of  
238 tobacco products by children. The remaining 20 percent of civil  
239 penalties received by a county court pursuant to this section  
240 shall remain with the clerk of the county court to cover  
241 administrative costs.

242 Section 8. Section 877.112, Florida Statutes, is repealed.



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243           Section 9. Paragraphs (a) and (b) of subsection (5) and  
244 paragraphs (e) and (g) of subsection (8) of section 210.095,  
245 Florida Statutes, are amended to read:

246           210.095 Mail order, Internet, and remote sales of tobacco  
247 products; age verification.—

248           (5) Each person who mails, ships, or otherwise delivers  
249 tobacco products in connection with an order for a delivery sale  
250 must:

251           (a) Include as part of the shipping documents, in a clear  
252 and conspicuous manner, the following statement: "Tobacco  
253 Products: Florida law prohibits shipping to individuals under 21  
254 ~~18~~ years of age and requires the payment of all applicable  
255 taxes."

256           (b) Use a method of mailing, shipping, or delivery which  
257 obligates the delivery service to require:

258           1. The individual submitting the order for the delivery  
259 sale or another adult who resides at the individual's address to  
260 sign his or her name to accept delivery of the shipping  
261 container. Proof of the legal minimum purchase age of the  
262 individual accepting delivery is required only if the individual  
263 appears to be under 30 ~~27~~ years of age.

264           2. Proof that the individual is either the addressee or the  
265 adult designated by the addressee, in the form of a valid,  
266 government-issued identification card bearing a photograph of  
267 the individual who signs to accept delivery of the shipping  
268 container.

269  
270 If the person accepting a purchase order for a delivery sale  
271 delivers the tobacco products without using a delivery service,





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272 the person must comply with all of the requirements of this  
273 section which apply to a delivery service. Any failure to comply  
274 with a requirement of this section constitutes a violation  
275 thereof.

276 (8)

277 (e) A person who, in connection with a delivery sale,  
278 delivers tobacco products on behalf of a delivery service to an  
279 individual who is not an adult commits a misdemeanor of the  
280 second ~~third~~ degree, punishable as provided in s. 775.082 or s.  
281 775.083.

282 (g) An individual who is not an adult and who knowingly  
283 violates any provision of this section commits a misdemeanor of  
284 the second ~~third~~ degree, punishable as provided in s. 775.082 or  
285 s. 775.083.

286 Section 10. Section 569.0075, Florida Statutes, is amended  
287 to read:

288 569.0075 Gift of sample tobacco products prohibited.—The  
289 gift of sample tobacco products to any person under the age of  
290 21 ~~18~~ by an entity licensed or permitted under the provisions of  
291 chapter 210 or this chapter, or by an employee of such entity,  
292 is prohibited and is punishable as provided in s. 569.101.

293 Section 11. Subsection (1), paragraphs (b) and (c) of  
294 subsection (2), and subsection (3) of section 569.008, Florida  
295 Statutes, are amended to read:

296 569.008 Responsible retail tobacco products dealers;  
297 qualifications; mitigation of disciplinary penalties; diligent  
298 management and supervision; presumption.—

299 (1) The Legislature intends to prevent the sale of tobacco  
300 products to persons under 21 ~~18~~ years of age and to encourage



301 retail tobacco products dealers to comply with responsible  
302 practices in accordance with this section.

303 (2) To qualify as a responsible retail tobacco products  
304 dealer, the dealer must establish and implement procedures  
305 designed to ensure that the dealer's employees comply with the  
306 provisions of this chapter. The dealer must provide a training  
307 program for the dealer's employees which addresses the use and  
308 sale of tobacco products and which includes at least the  
309 following topics:

310 (b) Methods of recognizing and handling customers under 21  
311 ~~18~~ years of age.

312 (c) Procedures for proper examination of identification  
313 cards in order to verify that customers are not under 21 ~~18~~  
314 years of age.

315 (3) In determining penalties under s. 569.006, the division  
316 may mitigate penalties imposed against a dealer because of an  
317 employee's illegal sale of a tobacco product to a person under  
318 21 ~~18~~ years of age if the following conditions are met:

319 (a) The dealer is qualified as a responsible dealer under  
320 this section.

321 (b) The dealer provided the training program required under  
322 subsection (2) to that employee before the illegal sale  
323 occurred.

324 (c) The dealer had no knowledge of that employee's  
325 violation at the time of the violation and did not direct,  
326 approve, or participate in the violation.

327 (d) If the sale was made through a vending machine, the  
328 machine was equipped with an operational lock-out device.

329 Section 12. Paragraph (b) of subsection (2), subsection



330 (3), and paragraph (g) of subsection (4) of section 569.12,  
331 Florida Statutes, are amended to read:

332 569.12 Jurisdiction; tobacco product enforcement officers  
333 or agents; enforcement.-

334 (2)

335 (b) A tobacco product enforcement officer is authorized to  
336 issue a citation to a person under the age of 21 ~~18~~ when, based  
337 upon personal investigation, the officer has reasonable cause to  
338 believe that the person has committed a civil infraction in  
339 violation of s. 386.212 or s. 569.11.

340 (3) A correctional probation officer as defined in s.  
341 943.10(3) is authorized to issue a citation to a person under  
342 the age of 21 ~~18~~ when, based upon personal investigation, the  
343 officer has reasonable cause to believe that the person has  
344 committed a civil infraction in violation of s. 569.11.

345 (4) A citation issued to any person violating the  
346 provisions of s. 569.11 shall be in a form prescribed by the  
347 Division of Alcoholic Beverages and Tobacco of the Department of  
348 Business and Professional Regulation and shall contain:

349 (g) The procedure for the person to follow in order to  
350 contest the citation, perform the required community service,  
351 attend the required anti-vaping or anti-tobacco program, or to  
352 pay the civil penalty.

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

355 And the title is amended as follows:

356 Delete lines 7 - 21

357 and insert:

358 property; revising civil penalties; amending s.



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359 569.002, F.S.; defining the term "liquid nicotine  
360 product"; revising the definition of the term "tobacco  
361 products"; deleting the term "any person under the age  
362 of 18"; amending s. 569.003, F.S.; revising the age  
363 limits for retail tobacco products dealer permits;  
364 amending s. 569.007, F.S.; revising prohibitions on  
365 the sale of tobacco products from vending machines;  
366 providing requirements for the delivery of vapor-  
367 generating electronic devices and liquid nicotine  
368 products; conforming provisions to federal law;  
369 prohibiting a person from selling, delivering,  
370 bartering, furnishing, or giving flavored liquid  
371 nicotine products to any other person; defining the  
372 term "flavored liquid nicotine product"; providing  
373 applicability; amending s. 569.101, F.S.; requiring  
374 that the age of persons purchasing tobacco products be  
375 verified under certain circumstances; amending s.  
376 569.11, F.S.; revising civil penalties; conforming  
377 provisions to federal law; conforming provisions to  
378 changes made by the act; repealing s. 877.112, F.S.,  
379 relating to nicotine products and nicotine dispensing  
380 devices; amending s. 210.095, F.S.; conforming  
381 provisions to federal law; making technical changes;  
382 amending ss. 569.0075, 569.008, 569.12, 569.14, and  
383 569.19, F.S.; conforming

By the Committees on Innovation, Industry, and Technology; and Health Policy; and Senators Simmons and Flores

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1 A bill to be entitled  
2 An act relating to tobacco and nicotine products;  
3 amending s. 210.15, F.S.; revising the age limits for  
4 permits relating to cigarettes; amending s. 386.212,  
5 F.S.; revising age and time restrictions relating to  
6 the prohibition of smoking and vaping near school  
7 property; amending s. 569.002, F.S.; revising the  
8 definition of the term "tobacco products"; deleting  
9 the term "any person under the age of 18"; amending s.  
10 569.003, F.S.; revising the age limits for retail  
11 tobacco products dealer permits; amending s. 569.007,  
12 F.S.; revising prohibitions on the sale of tobacco  
13 products from vending machines; conforming provisions  
14 to federal law; amending s. 569.101, F.S.; requiring  
15 that the age of persons purchasing tobacco products be  
16 verified under certain circumstances; repealing s.  
17 877.112, F.S., relating to nicotine products and  
18 nicotine dispensing devices; amending s. 210.095,  
19 F.S.; conforming provisions to federal law; making  
20 technical changes; amending ss. 569.0075, 569.008,  
21 569.11, 569.12, 569.14, and 569.19, F.S.; conforming  
22 provisions to federal law; conforming provisions to  
23 changes made by the act; providing a contingent  
24 effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. Paragraph (b) of subsection (1) of section  
29 210.15, Florida Statutes, is amended to read:

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30 210.15 Permits.—  
31 (1)  
32 (b) Permits shall be issued only to persons of good moral  
33 character, who are not less than 21 ~~18~~ years of age. Permits to  
34 corporations shall be issued only to corporations whose officers  
35 are of good moral character and not less than 21 ~~18~~ years of  
36 age. There shall be no exemptions from the permit fees herein  
37 provided to any persons, association of persons, or corporation,  
38 any law to the contrary notwithstanding.  
39 Section 2. Subsection (1) of section 386.212, Florida  
40 Statutes, is amended to read:  
41 386.212 Smoking and vaping prohibited near school property;  
42 penalty.—  
43 (1) It is unlawful for any person under 21 ~~18~~ years of age  
44 to smoke tobacco or vape in, on, or within 1,000 feet of the  
45 real property comprising a public or private elementary, middle,  
46 or secondary school ~~between the hours of 6 a.m. and midnight.~~  
47 This section does not apply to any person occupying a moving  
48 vehicle or within a private residence.  
49 Section 3. Subsections (6) and (7) of section 569.002,  
50 Florida Statutes, are amended to read:  
51 569.002 Definitions.—As used in this chapter, the term:  
52 (6) "Tobacco products" includes:  
53 (a) Any product containing, made of, or derived from  
54 tobacco or nicotine that is intended for human consumption or is  
55 likely to be consumed, whether inhaled, absorbed, or ingested by  
56 any other means, including, but not limited to, a cigarette, a  
57 cigar, pipe tobacco, chewing tobacco, snuff, or snus; or  
58 (b) Any component, part, or accessory of a product

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59 described in paragraph (a), whether or not any of these contain  
 60 tobacco or nicotine, including, but not limited to, filters,  
 61 rolling papers, blunt or hemp wraps, and pipes.

63 The term does not include drugs, devices, or combination  
 64 products authorized for sale by the United States Food and Drug  
 65 Administration, as those terms are defined in the Federal Food,  
 66 Drug, and Cosmetic Act ~~loose tobacco leaves, and products made~~  
 67 ~~from tobacco leaves, in whole or in part, and cigarette~~  
 68 ~~wrappers, which can be used for smoking, sniffing, or chewing.~~

69 ~~(7) "Any person under the age of 18" does not include any~~  
 70 ~~person under the age of 18 who:~~

71 ~~(a) Has had his or her disability of nonage removed under~~  
 72 ~~chapter 743;~~

73 ~~(b) Is in the military reserve or on active duty in the~~  
 74 ~~Armed Forces of the United States;~~

75 ~~(c) Is otherwise emancipated by a court of competent~~  
 76 ~~jurisdiction and released from parental care and responsibility;~~  
 77 ~~or~~

78 ~~(d) Is acting in his or her scope of lawful employment with~~  
 79 ~~an entity licensed under the provisions of chapter 210 or this~~  
 80 ~~chapter.~~

81 Section 4. Paragraph (a) of subsection (2) of section  
 82 569.003, Florida Statutes, is amended to read:

83 569.003 Retail tobacco products dealer permits;  
 84 application; qualifications; fees; renewal; duplicates.—

85 (2) (a) Permits may be issued only to persons who are 21 ~~18~~  
 86 years of age or older or to corporations the officers of which  
 87 are 21 ~~18~~ years of age or older.

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88 Section 5. Subsections (1) and (2) of section 569.007,  
 89 Florida Statutes, are amended to read:

90 569.007 Sale or delivery of tobacco products;  
 91 restrictions.—

92 (1) In order to prevent persons under 21 ~~18~~ years of age  
 93 from purchasing or receiving tobacco products, the sale or  
 94 delivery of tobacco products is prohibited, except:

95 (a) When under the direct control or line of sight of the  
 96 dealer or the dealer's agent or employee; or

97 (b) Sales from a vending machine are prohibited under the  
 98 ~~provisions of paragraph (1)(a) and are only permissible from a~~  
 99 machine that is located in an establishment that prohibits  
 100 persons under 21 years of age on the licensed premises at all  
 101 times equipped with an operational lockout device which is under  
 102 the control of the dealer or the dealer's agent or employee who  
 103 directly regulates the sale of items through the machine by  
 104 triggering the lockout device to allow the dispensing of one  
 105 tobacco product. The lockout device must include a mechanism to  
 106 prevent the machine from functioning if the power source for the  
 107 lockout device fails or if the lockout device is disabled, and a  
 108 mechanism to ensure that only one tobacco product is dispensed  
 109 at a time.

110 ~~(2) The provisions of subsection (1) shall not apply to an~~  
 111 ~~establishment that prohibits persons under 18 years of age on~~  
 112 ~~the licensed premises.~~

113 Section 6. Section 569.101, Florida Statutes, is amended to  
 114 read:

115 569.101 Selling, delivering, bartering, furnishing, or  
 116 giving tobacco products to persons under 21 ~~18~~ years of age;

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117 criminal penalties; defense.-

118 (1) It is unlawful to sell, deliver, barter, furnish, or  
119 give, directly or indirectly, to any person who is under 21 ~~18~~  
120 years of age, any tobacco product.

121 (2) Any person who violates subsection (1) commits a  
122 misdemeanor of the second degree, punishable as provided in s.  
123 775.082 or s. 775.083. However, any person who violates  
124 subsection (1) for a second or subsequent time within 1 year of  
125 the first violation, commits a misdemeanor of the first degree,  
126 punishable as provided in s. 775.082 or s. 775.083.

127 (3) A person charged with a violation of subsection (1) has  
128 a complete defense if, at the time the tobacco product was sold,  
129 delivered, bartered, furnished, or given:

130 (a) The buyer or recipient falsely evidenced that she or he  
131 was 21 ~~18~~ years of age or older;

132 (b) The appearance of the buyer or recipient was such that  
133 a prudent person would believe the buyer or recipient to be 21  
134 ~~18~~ years of age or older; and

135 (c) Such person carefully checked a driver license or an  
136 identification card issued by this state or another state of the  
137 United States, a passport, or a United States armed services  
138 identification card presented by the buyer or recipient and  
139 acted in good faith and in reliance upon the representation and  
140 appearance of the buyer or recipient in the belief that the  
141 buyer or recipient was 21 ~~18~~ years of age or older.

142 (4) A person must verify by means of identification  
143 specified in paragraph (3)(c) that a person purchasing a tobacco  
144 product is not under 21 years of age. Such verification is not  
145 required for any person over the age of 29.

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146 Section 7. Section 877.112, Florida Statutes, is repealed.

147 Section 8. Paragraphs (a) and (b) of subsection (5) and  
148 paragraphs (e) and (g) of subsection (8) of section 210.095,  
149 Florida Statutes, are amended to read:

150 210.095 Mail order, Internet, and remote sales of tobacco  
151 products; age verification.-

152 (5) Each person who mails, ships, or otherwise delivers  
153 tobacco products in connection with an order for a delivery sale  
154 must:

155 (a) Include as part of the shipping documents, in a clear  
156 and conspicuous manner, the following statement: "Tobacco  
157 Products: Florida law prohibits shipping to individuals under 21  
158 ~~18~~ years of age and requires the payment of all applicable  
159 taxes."

160 (b) Use a method of mailing, shipping, or delivery which  
161 obligates the delivery service to require:

162 1. The individual submitting the order for the delivery  
163 sale or another adult who resides at the individual's address to  
164 sign his or her name to accept delivery of the shipping  
165 container. Proof of the legal minimum purchase age of the  
166 individual accepting delivery is required only if the individual  
167 appears to be under 30 ~~27~~ years of age.

168 2. Proof that the individual is either the addressee or the  
169 adult designated by the addressee, in the form of a valid,  
170 government-issued identification card bearing a photograph of  
171 the individual who signs to accept delivery of the shipping  
172 container.

173  
174 If the person accepting a purchase order for a delivery sale

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175 delivers the tobacco products without using a delivery service,  
 176 the person must comply with all of the requirements of this  
 177 section which apply to a delivery service. Any failure to comply  
 178 with a requirement of this section constitutes a violation  
 179 thereof.

(8)

181 (e) A person who, in connection with a delivery sale,  
 182 delivers tobacco products on behalf of a delivery service to an  
 183 individual who is not an adult commits a misdemeanor of the  
 184 second ~~third~~ degree, punishable as provided in s. 775.082 or s.  
 185 775.083.

186 (g) An individual who is not an adult and who knowingly  
 187 violates any provision of this section commits a misdemeanor of  
 188 the second ~~third~~ degree, punishable as provided in s. 775.082 or  
 189 s. 775.083.

190 Section 9. Section 569.0075, Florida Statutes, is amended  
 191 to read:

192 569.0075 Gift of sample tobacco products prohibited.—The  
 193 gift of sample tobacco products to any person under the age of  
 194 21 ~~18~~ by an entity licensed or permitted under the provisions of  
 195 chapter 210 or this chapter, or by an employee of such entity,  
 196 is prohibited and is punishable as provided in s. 569.101.

197 Section 10. Subsection (1), paragraphs (b) and (c) of  
 198 subsection (2), and subsection (3) of section 569.008, Florida  
 199 Statutes, are amended to read:

200 569.008 Responsible retail tobacco products dealers;  
 201 qualifications; mitigation of disciplinary penalties; diligent  
 202 management and supervision; presumption.—

203 (1) The Legislature intends to prevent the sale of tobacco

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204 products to persons under 21 ~~18~~ years of age and to encourage  
 205 retail tobacco products dealers to comply with responsible  
 206 practices in accordance with this section.

207 (2) To qualify as a responsible retail tobacco products  
 208 dealer, the dealer must establish and implement procedures  
 209 designed to ensure that the dealer's employees comply with the  
 210 provisions of this chapter. The dealer must provide a training  
 211 program for the dealer's employees which addresses the use and  
 212 sale of tobacco products and which includes at least the  
 213 following topics:

214 (b) Methods of recognizing and handling customers under 21  
 215 ~~18~~ years of age.

216 (c) Procedures for proper examination of identification  
 217 cards in order to verify that customers are not under 21 ~~18~~  
 218 years of age.

219 (3) In determining penalties under s. 569.006, the division  
 220 may mitigate penalties imposed against a dealer because of an  
 221 employee's illegal sale of a tobacco product to a person under  
 222 21 ~~18~~ years of age if the following conditions are met:

223 (a) The dealer is qualified as a responsible dealer under  
 224 this section.

225 (b) The dealer provided the training program required under  
 226 subsection (2) to that employee before the illegal sale  
 227 occurred.

228 (c) The dealer had no knowledge of that employee's  
 229 violation at the time of the violation and did not direct,  
 230 approve, or participate in the violation.

231 (d) If the sale was made through a vending machine, the  
 232 machine was equipped with an operational lock-out device.

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233 Section 11. Section 569.11, Florida Statutes, is amended to  
234 read:

235 569.11 Possession, misrepresenting age ~~or military service~~  
236 to purchase, and purchase of tobacco products by persons under  
237 21 ~~18~~ years of age prohibited; penalties; jurisdiction;  
238 disposition of fines.—

239 (1) It is unlawful for any person under 21 ~~18~~ years of age  
240 to knowingly possess any tobacco product. Any person under 21 ~~18~~  
241 years of age who violates this subsection commits a noncriminal  
242 violation as provided in s. 775.08(3), punishable by:

243 (a) For a first violation, 16 hours of community service  
244 or, instead of community service, a \$25 fine. In addition, the  
245 person must attend a school-approved anti-tobacco program, if  
246 locally available; or

247 (b) For a second or subsequent violation within 12 weeks  
248 after the first violation, a \$25 fine.

249 Any second or subsequent violation not within the 12-week period  
250 after the first violation is punishable as provided for a first  
251 violation.

252 (2) It is unlawful for any person under 21 ~~18~~ years of age  
253 to misrepresent his or her age ~~or military service~~ for the  
254 purpose of inducing a dealer or an agent or employee of the  
255 dealer to sell, give, barter, furnish, or deliver any tobacco  
256 product, or to purchase, or attempt to purchase, any tobacco  
257 product from a person or a vending machine. Any person under 21  
258 ~~18~~ years of age who violates this subsection commits a  
259 noncriminal violation as provided in s. 775.08(3), punishable  
260 by:  
261

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262 (a) For a first violation, 16 hours of community service  
263 or, instead of community service, a \$25 fine and, in addition,  
264 the person must attend a school-approved anti-tobacco program,  
265 if available; or

266 (b) For a second or subsequent violation within 12 weeks  
267 after the first violation, a \$25 fine.

268 Any second or subsequent violation not within the 12-week period  
269 after the first violation is punishable as provided for a first  
270 violation.

271 (3) Any person under 21 ~~18~~ years of age cited for  
272 committing a noncriminal violation under this section must sign  
273 and accept a civil citation indicating a promise to appear  
274 before the county court or comply with the requirement for  
275 paying the fine and must attend a school-approved anti-tobacco  
276 program, if locally available. If a fine is assessed for a  
277 violation of this section, the fine must be paid within 30 days  
278 after the date of the citation or, if a court appearance is  
279 mandatory, within 30 days after the date of the hearing.

280 (4) A person charged with a noncriminal violation under  
281 this section must appear before the county court or comply with  
282 the requirement for paying the fine. The court, after a hearing,  
283 shall make a determination as to whether the noncriminal  
284 violation was committed. If the court finds the violation was  
285 committed, it shall impose an appropriate penalty as specified  
286 in subsection (1) or subsection (2). A person who participates  
287 in community service shall be considered an employee of the  
288 state for the purpose of chapter 440, for the duration of such  
289 service.  
290

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291 (5) (a) If a person under 21 ~~18~~ years of age is found by the  
 292 court to have committed a noncriminal violation under this  
 293 section and that person has failed to complete community  
 294 service, pay the fine as required by paragraph (1) (a) or  
 295 paragraph (2) (a), or attend a school-approved anti-tobacco  
 296 program, if locally available, the court may direct the  
 297 Department of Highway Safety and Motor Vehicles to withhold  
 298 issuance of or suspend the driver license or driving privilege  
 299 of that person for a period of 30 consecutive days.

300 (b) If a person under 21 ~~18~~ years of age is found by the  
 301 court to have committed a noncriminal violation under this  
 302 section and that person has failed to pay the applicable fine as  
 303 required by paragraph (1) (b) or paragraph (2) (b), the court may  
 304 direct the Department of Highway Safety and Motor Vehicles to  
 305 withhold issuance of or suspend the driver license or driving  
 306 privilege of that person for a period of 45 consecutive days.

307 (6) Eighty percent of all civil penalties received by a  
 308 county court pursuant to this section shall be remitted by the  
 309 clerk of the court to the Department of Revenue for transfer to  
 310 the Department of Education to provide for teacher training and  
 311 for research and evaluation to reduce and prevent the use of  
 312 tobacco products by children. The remaining 20 percent of civil  
 313 penalties received by a county court pursuant to this section  
 314 shall remain with the clerk of the county court to cover  
 315 administrative costs.

316 Section 12. Paragraph (b) of subsection (2) and subsection  
 317 (3) of section 569.12, Florida Statutes, are amended to read:

318 569.12 Jurisdiction; tobacco product enforcement officers  
 319 or agents; enforcement.-

Page 11 of 14

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

580-03009-20

2020810c2

320 (2)

321 (b) A tobacco product enforcement officer is authorized to  
 322 issue a citation to a person under the age of 21 ~~18~~ when, based  
 323 upon personal investigation, the officer has reasonable cause to  
 324 believe that the person has committed a civil infraction in  
 325 violation of s. 386.212 or s. 569.11.

326 (3) A correctional probation officer as defined in s.  
 327 943.10(3) is authorized to issue a citation to a person under  
 328 the age of 21 ~~18~~ when, based upon personal investigation, the  
 329 officer has reasonable cause to believe that the person has  
 330 committed a civil infraction in violation of s. 569.11.

331 Section 13. Section 569.14, Florida Statutes, is amended to  
 332 read:

333 569.14 Posting of a sign stating that the sale of tobacco  
 334 products to persons under 21 ~~18~~ years of age is unlawful;  
 335 enforcement; penalty.-

336 (1) A dealer that sells tobacco products shall post a clear  
 337 and conspicuous sign in each place of business where such  
 338 products are sold which substantially states the following:

339

340 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE  
 341 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS  
 342 REQUIRED FOR PURCHASE.

343

344 (2) ~~A dealer that sells tobacco products and nicotine~~  
 345 ~~products or nicotine dispensing devices, as defined in s.~~  
 346 ~~877.112, may use a sign that substantially states the following:~~

347

348 ~~THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR~~

Page 12 of 14

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580-03009-20

2020810c2

349 ~~NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE~~  
 350 ~~OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED~~  
 351 ~~FOR PURCHASE.~~

353 ~~A dealer that uses a sign as described in this subsection meets~~  
 354 ~~the signage requirements of subsection (1) and s. 877.112.~~

355 ~~(3)~~ The division shall make available to dealers of tobacco  
 356 products signs that meet the requirements of subsection (1) ~~or~~  
 357 ~~subsection (2).~~

358 (3)(4) Any dealer that sells tobacco products shall provide  
 359 at the checkout counter in a location clearly visible to the  
 360 dealer or the dealer's agent or employee instructional material  
 361 in a calendar format or similar format to assist in determining  
 362 whether a person is of legal age to purchase tobacco products.  
 363 This point of sale material must contain substantially the  
 364 following language:

365 IF YOU WERE NOT BORN BEFORE THIS DATE  
 366 (insert date and applicable year)  
 367 YOU CANNOT BUY TOBACCO PRODUCTS.  
 368

369  
 370 Upon approval by the division, in lieu of a calendar a dealer  
 371 may use card readers, scanners, or other electronic or automated  
 372 systems that can verify whether a person is of legal age to  
 373 purchase tobacco products. Failure to comply with the provisions  
 374 contained in this subsection shall result in imposition of  
 375 administrative penalties as provided in s. 569.006.

376 (4)(5) The division, through its agents and inspectors,  
 377 shall enforce this section.

Page 13 of 14

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580-03009-20

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378 (5)(6) Any person who fails to comply with subsection (1)  
 379 is guilty of a misdemeanor of the second degree, punishable as  
 380 provided in s. 775.082 or s. 775.083.

381 Section 14. Subsections (3) and (4) of section 569.19,  
 382 Florida Statutes, are amended to read:

383 569.19 Annual report.—The division shall report annually  
 384 with written findings to the Legislature and the Governor by  
 385 December 31, on the progress of implementing the enforcement  
 386 provisions of this chapter. This must include, but is not  
 387 limited to:

388 (3) The number of violations for selling tobacco products  
 389 to persons under age 21 ~~18~~, and the results of administrative  
 390 hearings on the above and related issues.

391 (4) The number of persons under age 21 ~~18~~ cited for  
 392 violations of s. 569.11 and sanctions imposed as a result of  
 393 citation.

394 Section 15. This act shall take effect October 1, 2020, if  
 395 SB 1394 or similar legislation is adopted in the same  
 396 legislative session or an extension thereof and becomes a law.

Page 14 of 14

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:** 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.

A handwritten signature in black ink, appearing to read "David Simmons".

---

Senator David Simmons  
Florida Senate, District 9

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.

Phone \_\_\_\_\_

Street

Oldsmar

FL

34677

Email robert@flsmokefree.org

City

State

Zip

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

Phone 205 9000

TLH  
City State Zip

Email doug.belle@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

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.

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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

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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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)

2/20/2020

*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

Phone \_\_\_\_\_

*Street*

Tallahassee

FL

32399

Email \_\_\_\_\_

*City*

*State*

*Zip*

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)

2/20/20

Meeting Date

SB 810

Bill Number (if applicable)

Topic SB 810

Amendment Barcode (if applicable)

Name Kino Becton

Job Title Regional Government Affairs

Address 150 Forsyth Ln

Phone 636-445-2522

Street

Tega Cay

City

SC

State

29708

Zip

Email becton@vapor technologies

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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**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

Tallahassee

City

FL

State

32399

Zip

Phone \_\_\_\_\_

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Office of the Attorney General

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/26/26

Meeting Date

SB 810

Bill Number (if applicable)

811930

Amendment Barcode (if applicable)

Topic FI SB 810 Am. 8/1/930

Name Kind Becton

Job Title Regional Government Affairs

Address 150 Forsythia Lane

Phone 636-445-2522

Tega Cay

SC

29708

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.

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

City

FL

State

34677

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 \_\_\_\_\_

Amendment Barcode (if applicable)

Name Greg Povich

Job Title \_\_\_\_\_

Address 9166 Sunrise Dr

Phone \_\_\_\_\_

Street

Largo

City

FL

State

33773

Zip

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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**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.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<b>Fav/CS</b>
2.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	<b>Favorable</b>
3.	<u>Dale</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

---

**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.<sup>1</sup>

The bill takes effect July 1, 2020.

---

<sup>1</sup> 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.<sup>2</sup>

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.

<b>Regional Office</b>	<b>FTE Positions</b>	<b>Salary Rate</b>
<b>First</b>	122.00	6,822,226
<b>Second</b>	107.00	6,310,604
<b>Third</b>	66.75	4,314,054
<b>Fourth</b>	114.00	6,257,822
<b>Fifth</b>	92.00	4,621,667
<b>Total</b>	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.<sup>3</sup> The FRS is a contributory system, with active members contributing three percent of their salaries.<sup>4</sup>

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

- The Regular Class<sup>5</sup> consists of 554,631 active members and 7,629 in renewed membership;
- The Special Risk Class<sup>6</sup> includes 74,274 active members and 1,112 in renewed membership;

<sup>2</sup> Section 27.511(5) and (6), F.S.

<sup>3</sup> 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](https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf) (last visited February 13, 2020).

<sup>4</sup> 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.

<sup>5</sup> The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>6</sup> 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<sup>7</sup> has 100 active members and 1 in renewed membership;
- The Elected Officers' Class<sup>8</sup> has 2,088 active members and 112 in renewed membership; and
- The Senior Management Service Class<sup>9</sup> has 7,767 active members and 214 in renewed membership.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup> For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup>

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.

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> 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.

<sup>10</sup> 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.

<sup>11</sup> Section 121.025, F.S.

<sup>12</sup> Section 121.021(45)(a), F.S.

<sup>13</sup> Section 121.021(45)(b), F.S.

<sup>14</sup> Section 121.091, F.S.

<sup>15</sup> Section 121.021(29)(a)1., F.S.

<sup>16</sup> 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.<sup>17</sup> The Board of Trustees of the SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.<sup>18</sup>

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.<sup>19</sup> With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.<sup>20</sup> Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.<sup>21</sup> The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.<sup>22</sup> 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.<sup>23</sup>

---

<sup>17</sup> Section 121.4501(8), F.S.

<sup>18</sup> FLA CONST. art. IV, s. 4.

<sup>19</sup> Section 121.4501(6)(a), F.S.

<sup>20</sup> 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.

<sup>21</sup> Section 121.591, F.S.

<sup>22</sup> See s. 121.4501(16), F.S.

<sup>23</sup> 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.

<b>Allocation of Contributions</b>	<b>Regular Class</b>	<b>Senior Management Service Class</b>
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%.<sup>24</sup>

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.<sup>25</sup> 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.

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<sup>24</sup> Department of Management Services 2019-20 Total Rates by Class / Plan ([https://www.rol.frs.state.fl.us/forms/ir19-211\\_rates\\_only.pdf](https://www.rol.frs.state.fl.us/forms/ir19-211_rates_only.pdf)) (Last visited February 13, 2020)

<sup>25</sup> 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.

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

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By the Committee on Governmental Oversight and Accountability;  
and Senator Perry

585-02435-20

2020952c1

1 A bill to be entitled  
2 An act relating to the Senior Management Service  
3 Class; amending s. 121.055, F.S.; providing that  
4 participation in the Senior Management Service Class  
5 of the Florida Retirement System is compulsory for  
6 each appointed criminal conflict and civil regional  
7 counsel and specified staff of the regional counsel  
8 beginning on a specified date; authorizing members of  
9 the class to purchase and upgrade certain retirement  
10 credit; providing an effective date.

11

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

13

14 Section 1. Paragraph (m) is added to subsection (1) of  
15 section 121.055, Florida Statutes, to read:

16

17 121.055 Senior Management Service Class.—There is hereby  
18 established a separate class of membership within the Florida  
19 Retirement System to be known as the "Senior Management Service  
20 Class," which shall become effective February 1, 1987.

21

(1)

22

23 (m)1. Effective July 1, 2020, participation in the Senior  
24 Management Service Class is compulsory for each appointed  
25 criminal conflict and civil regional counsel and each district's  
26 assistant regional counsel chiefs, administrative directors, and  
27 chief investigators.

28

29 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

Page 1 of 2

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

585-02435-20

2020952c1

30 upgrade retirement credit for such service in accordance with  
31 paragraph (j). However, this service credit may not be purchased  
32 by the employer on behalf of the member.

33

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

Page 2 of 2

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

**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)*

Topic Senior Management Service Class - 2020

*Amendment Barcode (if applicable)*

Name Candice K. Brower

Job Title Regional Counsel, 1st Region

Address 235 S. Main Street, Suite 205

Phone 352-377-0567

*Street*

Gainesville

Florida

32601

Email Candice.Brower@rc1.myflorida.com

*City*

*State*

*Zip*

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)*

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*Amendment Barcode (if applicable)*

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Gainesville

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32601

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*City*

*State*

*Zip*

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.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
3.	<u>Dale</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

---

**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.<sup>1</sup> A subpoena duces tecum is a type of subpoena that requires the witness to produce a document or documents pertinent to a proceeding.<sup>2</sup> Section 27.04, F.S., “allows the state attorney to issue subpoenas duces tecum for records as part of an ongoing investigation.”<sup>3</sup> The state does not need to establish the relevance and materiality of the information sought through an investigative subpoena,<sup>4</sup> but the subject matter of the investigation must be confined to violations of criminal law.<sup>5</sup>

Section 92.605(2), F.S., describes subpoenas, court orders, and warrants issued in compliance with the Electronic Communications and Privacy Act.<sup>6</sup> 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.<sup>7</sup> An “out-of-state corporation,” i.e., any corporation qualified to do business in Florida under s. 607.1501, F.S.,<sup>8</sup> is “properly served,” by subpoena or otherwise, when service is effected on that corporation’s registered agent.<sup>9</sup>

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.

---

<sup>1</sup> *Subpoena*, Legal Information Institute (available at <https://www.law.cornell.edu/wex/subpoena>).

<sup>2</sup> *Subpoena duces tecum*, Legal Information Institute, (available at [https://www.law.cornell.edu/wex/subpoena\\_duces\\_tecum](https://www.law.cornell.edu/wex/subpoena_duces_tecum)).

<sup>3</sup> *State v. Investigation*, 802 So. 2d 1141, 1144 (Fla. 2d DCA 2001).

<sup>4</sup> *Id.*

<sup>5</sup> *Morgan v. State*, 309 So. 2d 552, 553 (Fla. 1975).

<sup>6</sup> 18 U.S.C. § 2701 et seq.

<sup>7</sup> 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.

<sup>8</sup> Section 92.605(1)(e), F.S.

<sup>9</sup> 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<sup>10</sup> 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.

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<sup>10</sup> 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

Page 1 of 2

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

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.

Page 2 of 2

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



## 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,

A handwritten signature in blue ink, appearing to read "JR", written over a horizontal line.

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

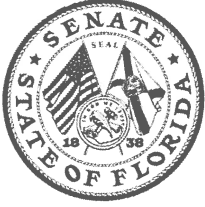
REPLY TO:

- ☐ 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](http://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*

SENATE APPROPRIATIONS  
RECEIVED  
2020 FEB -5 PM 2:43  
SENT TO: CHAIRMAN  
STAFF DIR. STAFF

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District 37

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Senate's Website: [www.flsenate.gov](http://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](mailto:bradley.rob@flsenate.gov)*

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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

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Senate's Website: [www.flsenate.gov](http://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.)

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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.	<u>Kibbey</u>	<u>Brown</u>	<u>HP</u>	<b>Favorable</b>
2.	<u>McKnight</u>	<u>Kidd</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3.	<u>McKnight</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

---

**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.<sup>1</sup> 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).<sup>2</sup> 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.<sup>3</sup>

Florida law requires pharmacists to substitute a less expensive generic medication for a prescribed brand name medication, unless otherwise indicated by the purchaser.<sup>4</sup> 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.<sup>5</sup>

Florida law authorizes, but does not require, a pharmacist to substitute a biosimilar<sup>6</sup> for a prescribed biological product<sup>7</sup> 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.<sup>8</sup>

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.<sup>9</sup>

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

---

<sup>1</sup> 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).

<sup>2</sup> *Id.*

<sup>3</sup> Section 465.025(6), F.S.; see also Rule 64B-16.27.500, F.A.C.

<sup>4</sup> Section 465.025(2), F.S.

<sup>5</sup> 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).

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> Section 465.0252(2), F.S.

<sup>9</sup> 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.<sup>10</sup>

### 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.<sup>11</sup>

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.<sup>12</sup> 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.<sup>13, 14, 15</sup> Arkansas and Kentucky require a pharmacist to notify the prescriber in the first 24 business hours after a therapeutic substitution.<sup>16</sup> Idaho requires such notification within five days.<sup>17</sup> In Idaho and Arkansas, but not in Kentucky, the patient is notified and has a right to refuse the therapeutic substitution.<sup>18</sup>

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.<sup>19</sup> Arkansas states that the substitution must be to a drug "that is at a lower cost to the patient."<sup>20</sup> Idaho adopts this lower cost language for patients who do not have health plan coverage.<sup>21</sup>

Several states, including Idaho, have authorized therapeutic substitution in institutional settings.<sup>22</sup> 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.<sup>23</sup> Wisconsin authorizes a pharmacist to make therapeutic substitutions for a

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<sup>10</sup> 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).

<sup>11</sup> 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.

<sup>12</sup> 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).

<sup>13</sup> 201 K.A.R. 2:280, <https://apps.legislature.ky.gov/law/kar/201/002/280.pdf> (last visited Jan 9, 2020).

<sup>14</sup> Section 54-1768, Idaho Code, <https://legislature.idaho.gov/statutesrules/idstat/Title54/T54CH17/SECT54-1768/> (last visited Jan 8, 2020).

<sup>15</sup> 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).

<sup>16</sup> *Supra* notes 13 and 15.

<sup>17</sup> *Supra* note 14.

<sup>18</sup> *Supra* notes 14 and 15.

<sup>19</sup> *Supra* note 12.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Supra* note 14.

<sup>23</sup> Conn. Gen. Stat. Ch. 368v 19a-521d., [https://www.cga.ct.gov/current/pub/chap\\_368v.htm#sec\\_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.<sup>24</sup>

### **Institutional Formulary Systems in Florida**

Section 465.019, F.S., authorizes a Class II<sup>25</sup> or Class III<sup>26</sup> 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."<sup>27</sup>

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<sup>28</sup>) 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.<sup>29</sup> 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.<sup>30</sup> 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

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<sup>24</sup> Wis. Stat. s. 450.01(16)(hm) <https://docs.legis.wisconsin.gov/statutes/statutes/450/13> (last visited Jan. 8, 2020).

<sup>25</sup> 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.

<sup>26</sup> 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.

<sup>27</sup> Section 465.003, F.S.

<sup>28</sup> American Society of Health-System Pharmacists, *ASHP History*, <https://www.ashp.org/About-ASHP/Our-History/ASHP-History> (last visited Jan. 9, 2020).

<sup>29</sup> 42 CFR § 483.45.

<sup>30</sup> *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.<sup>31</sup>

### 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."

<sup>31</sup> 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

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1 A bill to be entitled  
 2 An act relating to institutional formularies  
 3 established by nursing home facilities; creating s.  
 4 400.143, F.S.; defining terms; authorizing a nursing  
 5 home facility to establish and implement an  
 6 institutional formulary; requiring such formulary to  
 7 be developed by a committee established by the nursing  
 8 home facility; providing for committee membership;  
 9 providing requirements for the development and  
 10 implementation of the institutional formulary;  
 11 requiring a nursing home facility to maintain written  
 12 policies and procedures for the institutional  
 13 formulary; requiring a nursing home facility to make  
 14 available such policies and procedures to the Agency  
 15 for Health Care Administration, upon request;  
 16 requiring a prescriber to annually authorize the use  
 17 of the institutional formulary for certain patients;  
 18 requiring the prescriber to opt into any changes made  
 19 to the institutional formulary; authorizing a  
 20 prescriber to opt out of use of the institutional  
 21 formulary or to prevent a therapeutic substitution,  
 22 under certain circumstances; prohibiting a nursing  
 23 home facility from taking adverse action against a  
 24 prescriber for refusing to agree to the use of the  
 25 institutional formulary; amending s. 465.025, F.S.;  
 26 authorizing a pharmacist to therapeutically substitute  
 27 medicinal drugs under an institutional formulary  
 28 established by a nursing home facility, under certain  
 29 circumstances; prohibiting a pharmacist from

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

4-01221-20

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30 therapeutically substituting a medicinal drug, under  
 31 certain circumstances; providing an effective date.  
 32  
 33 Be It Enacted by the Legislature of the State of Florida:  
 34  
 35 Section 1. Section 400.143, Florida Statutes, is created to  
 36 read:  
 37 400.143 Institutional formularies established by nursing  
 38 home facilities.—  
 39 (1) For purposes of this section, the term:  
 40 (a) "Institutional formulary" means a list of medicinal  
 41 drugs established by a nursing home facility under this section  
 42 for which a pharmacist may use a therapeutic substitution for a  
 43 medicinal drug prescribed to a resident of the facility.  
 44 (b) "Medicinal drug" has the same meaning as provided in s.  
 45 465.003(8).  
 46 (c) "Prescriber" has the same meaning as provided in s.  
 47 465.025(1).  
 48 (d) "Therapeutic substitution" means the practice of  
 49 replacing a nursing home facility resident's prescribed  
 50 medicinal drug with another chemically different medicinal drug  
 51 that is expected to have the same clinical effect.  
 52 (2) A nursing home facility may establish and implement an  
 53 institutional formulary in accordance with the requirements of  
 54 this section.  
 55 (3) A nursing home facility that implements an  
 56 institutional formulary under this section shall:  
 57 (a) Establish a committee to develop the institutional  
 58 formulary and written guidelines or procedures for such

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

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59 institutional formulary. The committee must consist of, at a  
 60 minimum, all of the following:

- 61 1. The facility's medical director.
- 62 2. The facility's director of nursing services.
- 63 3. A consultant pharmacist licensed by the Department of  
 64 Health and certified under s. 465.0125.

65 (b) Establish methods and criteria for selecting and  
 66 objectively evaluating all available pharmaceutical products  
 67 that may be used as therapeutic substitutes.

68 (c) Establish policies and procedures for developing and  
 69 maintaining the institutional formulary and for approving,  
 70 disseminating, and notifying prescribers of the institutional  
 71 formulary.

72 (d) Perform quarterly monitoring to ensure compliance with  
 73 the policies and procedures established under paragraph (c) and  
 74 monitor the clinical outcomes in circumstances in which a  
 75 therapeutic substitution has occurred.

76 (4) The nursing home facility shall maintain all written  
 77 policies and procedures for the institutional formulary  
 78 established under this section. Each nursing home facility shall  
 79 make available such policies and procedures to the agency, upon  
 80 request.

81 (5) (a) A prescriber shall annually authorize the  
 82 institutional formulary for his or her patients and shall opt  
 83 into any subsequent changes made to a nursing home facility's  
 84 institutional formulary.

85 (b) A prescriber may opt out of the nursing home facility's  
 86 institutional formulary with respect to a particular patient,  
 87 medicinal drug, or class of medicinal drugs.

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88 (c) A prescriber may prevent a therapeutic substitution for  
 89 a specific medication order if such order is provided verbally  
 90 or generated and transmitted electronically by indicating "NO  
 91 THERAPEUTIC SUBSTITUTION" on the prescription.

92 (d) A nursing home facility may not take adverse action  
 93 against a prescriber for refusing to agree to the use of the  
 94 facility's institutional formulary.

95 Section 2. Subsection (9) is added to section 465.025,  
 96 Florida Statutes, to read:

97 465.025 Substitution of drugs.—

98 (9) A pharmacist may therapeutically substitute medicinal  
 99 drugs in accordance with an institutional formulary established  
 100 under s. 400.143 for the resident of a nursing home facility if  
 101 the prescriber has agreed to the use of such institutional  
 102 formulary. The pharmacist may not therapeutically substitute a  
 103 medicinal drug pursuant to the facility's institutional  
 104 formulary if the prescriber indicates verbally or electronically  
 105 on the prescription "NO THERAPEUTIC SUBSTITUTION," as authorized  
 106 under s. 400.143(5) (c).

107 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.

A handwritten signature in blue ink that reads "Aaron Bean".

---

Senator Aaron Bean  
Florida Senate, District 4

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/26/20  
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

Phone 850-224-3907

Tallahassee FL 32304  
City State Zip

Email basztalos@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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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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.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
3.	<u>Forbes</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup> 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).<sup>2</sup> 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.<sup>3</sup>

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

- The Regular Class<sup>4</sup> consists of 554,631 active members and 7,629 in renewed membership;<sup>5</sup>
- The Special Risk Class<sup>6</sup> includes 74,274 active members and 1,112 in renewed membership;
- The Special Risk Administrative Support Class<sup>7</sup> has 100 active members;
- The Elected Officers' Class<sup>8</sup> has 2,088 active members and 112 in renewed membership; and
- The Senior Management Service Class<sup>9</sup> has 7,767 active members and 214 in renewed membership.<sup>10</sup>

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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<sup>1</sup> 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](https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf) (last visited January 6, 2020).

<sup>2</sup> *Id.* at 158.

<sup>3</sup> *Id.* at 8.

<sup>4</sup> The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> 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.

<sup>10</sup> 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](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.<sup>11</sup>

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.<sup>12</sup> 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<sup>13</sup> and as recommended by the state actuary<sup>14</sup> beginning FY 2020-2021.

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<sup>11</sup> Section 121.0515(1), F.S.

<sup>12</sup> 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](https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf) (last visited January 6, 2020).

<sup>13</sup> Section 121.71(4) and (5), F.S.

<sup>14</sup> 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).

Rates to fund	2019-20		2020-21	
	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<sup>15</sup> and that has dismissed any action or claim described in s. 985.6865(2), F.S.,<sup>16</sup> must pay 50 percent of the total shared detention cost.<sup>17</sup>

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.<sup>18</sup>

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.<sup>19</sup> Funds paid by the counties to the DJJ under this section must be deposited into the Shared County/State Juvenile Detention Trust Fund.<sup>20</sup> The DJJ will determine quarterly whether counties are complying with this section.<sup>21</sup>

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.<sup>22</sup>

<sup>15</sup> 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.

<sup>16</sup> 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.

<sup>17</sup> Section 985.6865(4), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> Section 985.6865(6), F.S.

<sup>20</sup> Section 985.6865(7), F.S.

<sup>21</sup> Section 985.6865(8), F.S.

<sup>22</sup> 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.<sup>23</sup> 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.<sup>24</sup>

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.<sup>25</sup>

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.<sup>26</sup>

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.<sup>27</sup>

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.<sup>28</sup>

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<sup>23</sup> Department of Juvenile Justice, *2020 Agency Analysis of SB 1146* (December 19, 2019). On file with the Senate Committee on Criminal Justice.

<sup>24</sup> Department of Juvenile Justice, *Detention Services*, available at <http://www.djj.state.fl.us/services/detention> (last visited January 6, 2020).

<sup>25</sup> Section 985.66(3), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Department of Juvenile Justice, *2020 Agency Analysis of SB 1146* (December 19, 2019). On file with the Senate Committee on Criminal Justice.

<sup>28</sup> *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.<sup>29</sup> 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.<sup>30</sup> Non-fiscally constrained counties are required to contribute 50 percent of the total detention costs to the DJJ.<sup>31</sup>

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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<sup>29</sup> 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).

<sup>30</sup> Department of Juvenile Justice, *2020 Agency Analysis of SB 1146* (December 19, 2019).

<sup>31</sup> 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

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1 A bill to be entitled  
 2 An act relating to the Special Risk Class of the  
 3 Florida Retirement System; amending s. 121.0515, F.S.;  
 4 adding juvenile justice detention officers I and II  
 5 and juvenile justice detention officer supervisors  
 6 employed by the Department of Juvenile Justice who  
 7 meet certain criteria to the class; providing a  
 8 declaration of important state interest; providing an  
 9 effective date.

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

11  
 12  
 13 Section 1. Subsection (3) of section 121.0515, Florida  
 14 Statutes, is amended, and paragraph (i) is added to subsection  
 15 (2) of that section, to read:

16 121.0515 Special Risk Class.—

17 (2) MEMBERSHIP.—

18 (i) Effective July 1, 2020, the member must be employed by  
 19 the Department of Juvenile Justice as a juvenile justice  
 20 detention officer I or II or a juvenile justice detention  
 21 officer supervisor and meet the special criteria set forth in  
 22 paragraph (3) (k).

23 (3) CRITERIA.—A member, to be designated as a special risk  
 24 member, must meet the following criteria:

25 (a) Effective October 1, 1978, the member must be employed  
 26 as a law enforcement officer and be certified, or required to be  
 27 certified, in compliance with s. 943.1395, ~~except that, however,~~  
 28 ~~sheriffs and elected police chiefs are not required to be~~  
 29 ~~certified excluded from meeting the certification requirements~~

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

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30 ~~of this paragraph.~~ In addition, the member's duties and  
 31 responsibilities must include the pursuit, apprehension, and  
 32 arrest of law violators or suspected law violators; or as of  
 33 July 1, 1982, the member must be an active member of a bomb  
 34 disposal unit whose primary responsibility is the location,  
 35 handling, and disposal of explosive devices; or the member must  
 36 be the supervisor or command officer of a member or members who  
 37 have such responsibilities. Administrative support personnel,  
 38 including, but not limited to, those whose primary duties and  
 39 responsibilities are in accounting, purchasing, legal, and  
 40 personnel, are not included;

41 (b) Effective October 1, 1978, the member must be employed  
 42 as a firefighter and be certified, or required to be certified,  
 43 in compliance with s. 633.408 and be employed solely within the  
 44 fire department of a local government employer or an agency of  
 45 state government with firefighting responsibilities. In  
 46 addition, the member's duties and responsibilities must include  
 47 on-the-scene fighting of fires; as of October 1, 2001, fire  
 48 prevention or firefighter training; as of October 1, 2001,  
 49 direct supervision of firefighting units, fire prevention, or  
 50 firefighter training; or as of July 1, 2001, aerial firefighting  
 51 surveillance performed by fixed-wing aircraft pilots employed by  
 52 the Florida Forest Service of the Department of Agriculture and  
 53 Consumer Services; or the member must be the supervisor or  
 54 command officer of a member or members who have such  
 55 responsibilities. Administrative support personnel, including,  
 56 but not limited to, those whose primary duties and  
 57 responsibilities are in accounting, purchasing, legal, and  
 58 personnel, are not included. All periods of creditable service

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59 in fire prevention or firefighter training, or as the supervisor  
60 or command officer of a member or members who have such  
61 responsibilities, and for which the employer paid the special  
62 risk contribution rate, are included;

63 (c) Effective October 1, 1978, the member must be employed  
64 as a correctional officer and be certified, or required to be  
65 certified, in compliance with s. 943.1395. In addition, the  
66 member's primary duties and responsibilities must be the  
67 custody, and physical restraint if ~~when~~ necessary, of prisoners  
68 or inmates within a prison, jail, or other criminal detention  
69 facility, or while on work detail outside the facility, or while  
70 being transported; or as of July 1, 1984, the member must be the  
71 supervisor or command officer of a member or members who have  
72 such responsibilities. Administrative support personnel,  
73 including, but not limited to, those whose primary duties and  
74 responsibilities are in accounting, purchasing, legal, and  
75 personnel, are not included; however, wardens and assistant  
76 wardens, as defined by rule, are included;

77 (d) Effective October 1, 1999, the member must be employed  
78 by a licensed Advance Life Support (ALS) or Basic Life Support  
79 (BLS) employer as an emergency medical technician or a paramedic  
80 and be certified in compliance with s. 401.27. In addition, the  
81 member's primary duties and responsibilities must include on-  
82 the-scene emergency medical care or as of October 1, 2001,  
83 direct supervision of emergency medical technicians or  
84 paramedics, or the member must be the supervisor or command  
85 officer of one or more members who have such responsibility.  
86 Administrative support personnel, including, but not limited to,  
87 those whose primary responsibilities are in accounting,

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88 purchasing, legal, and personnel, are not included;

89 (e) Effective January 1, 2001, the member must be employed  
90 as a community-based correctional probation officer and be  
91 certified, or required to be certified, in compliance with s.  
92 943.1395. In addition, the member's primary duties and  
93 responsibilities must be the supervised custody, surveillance,  
94 control, investigation, and counseling of assigned inmates,  
95 probationers, parolees, or community controllees within the  
96 community; or the member must be the supervisor of a member or  
97 members who have such responsibilities. Administrative support  
98 personnel, including, but not limited to, those whose primary  
99 duties and responsibilities are in accounting, purchasing, legal  
100 services, and personnel management, are not included; however,  
101 probation and parole circuit and deputy circuit administrators  
102 are included;

103 (f) Effective January 1, 2001, the member must be employed  
104 in one of the following classes and must spend at least 75  
105 percent of his or her time performing duties that ~~which~~ involve  
106 contact with patients or inmates in a correctional or forensic  
107 facility or institution:

- 108 1. Dietitian (class codes 5203 and 5204);
- 109 2. Public health nutrition consultant (class code 5224);
- 110 3. Psychological specialist (class codes 5230 and 5231);
- 111 4. Psychologist (class code 5234);
- 112 5. Senior psychologist (class codes 5237 and 5238);
- 113 6. Regional mental health consultant (class code 5240);
- 114 7. Psychological Services Director-DCF (class code 5242);
- 115 8. Pharmacist (class codes 5245 and 5246);
- 116 9. Senior pharmacist (class codes 5248 and 5249);

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117 10. Dentist (class code 5266);

118 11. Senior dentist (class code 5269);

119 12. Registered nurse (class codes 5290 and 5291);

120 13. Senior registered nurse (class codes 5292 and 5293);

121 14. Registered nurse specialist (class codes 5294 and

122 5295);

123 15. Clinical associate (class codes 5298 and 5299);

124 16. Advanced practice registered nurse (class codes 5297

125 and 5300);

126 17. Advanced practice registered nurse specialist (class

127 codes 5304 and 5305);

128 18. Registered nurse supervisor (class codes 5306 and

129 5307);

130 19. Senior registered nurse supervisor (class codes 5308

131 and 5309);

132 20. Registered nursing consultant (class codes 5312 and

133 5313);

134 21. Quality management program supervisor (class code

135 5314);

136 22. Executive nursing director (class codes 5320 and 5321);

137 23. Speech and hearing therapist (class code 5406); or

138 24. Pharmacy manager (class code 5251);

139 (g) Effective October 1, 2005, through June 30, 2008, the

140 member must be employed by a law enforcement agency or medical

141 examiner's office in a forensic discipline recognized by the

142 International Association for Identification and must qualify

143 for active membership in the International Association for

144 Identification. The member's primary duties and responsibilities

145 must include the collection, examination, preservation,

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146 documentation, preparation, or analysis of physical evidence or

147 testimony, or both, or the member must be the direct supervisor,

148 quality management supervisor, or command officer of one or more

149 individuals with such responsibility. Administrative support

150 personnel, including, but not limited to, those whose primary

151 responsibilities are clerical or in accounting, purchasing,

152 legal, and personnel, are not included;

153 (h) Effective July 1, 2008, the member must be employed by

154 the Department of Law Enforcement in the crime laboratory or by

155 the Division of State Fire Marshal in the forensic laboratory in

156 one of the following classes:

157 1. Forensic technologist (class code 8459);

158 2. Crime laboratory technician (class code 8461);

159 3. Crime laboratory analyst (class code 8463);

160 4. Senior crime laboratory analyst (class code 8464);

161 5. Crime laboratory analyst supervisor (class code 8466);

162 6. Forensic chief (class code 9602); or

163 7. Forensic services quality manager (class code 9603);

164 (i) Effective July 1, 2008, the member must be employed by

165 a local government law enforcement agency or medical examiner's

166 office and must spend at least 65 percent of his or her time

167 performing duties that involve the collection, examination,

168 preservation, documentation, preparation, or analysis of human

169 tissues or fluids or physical evidence having potential

170 biological, chemical, or radiological hazard or contamination,

171 or use chemicals, processes, or materials that may have

172 carcinogenic or health-damaging properties in the analysis of

173 such evidence, or the member must be the direct supervisor of

174 one or more individuals having such responsibility. If a special

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175 risk member changes to another position within the same agency,  
 176 he or she must submit a complete application as provided in  
 177 paragraph (4) (a); ~~or~~

178 (j) The member must have already qualified for and be  
 179 actively participating in special risk membership under  
 180 paragraph (a), paragraph (b), or paragraph (c), must have  
 181 suffered a qualifying injury as defined in this paragraph, must  
 182 not be receiving disability retirement benefits as provided in  
 183 s. 121.091(4), and must satisfy the requirements of this  
 184 paragraph.

185 1. The ability to qualify for the class of membership  
 186 defined in paragraph (2) (h) occurs when two licensed medical  
 187 physicians, one of whom is a primary treating physician of the  
 188 member, certify the existence of the physical injury and medical  
 189 condition that constitute a qualifying injury as defined in this  
 190 paragraph and ~~that~~ the member has reached maximum medical  
 191 improvement after August 1, 2008. The certifications from the  
 192 licensed medical physicians must include, at a minimum, that the  
 193 injury to the special risk member has resulted in a physical  
 194 loss, or loss of use, of at least two of the following: left  
 195 arm, right arm, left leg, or right leg; and that:

196 a. ~~The That this~~ physical loss or loss of use is total and  
 197 permanent, unless ~~except if~~ the loss of use is due to a physical  
 198 injury to the member's brain, in which event the loss of use is  
 199 permanent with at least 75 percent loss of motor function with  
 200 respect to each arm or leg affected.

201 b. ~~The That this~~ physical loss or loss of use renders the  
 202 member physically unable to perform the essential job functions  
 203 of his or her special risk position.

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204 c. ~~That,~~ Notwithstanding this physical loss or loss of use,  
 205 the individual can perform the essential job functions required  
 206 by the member's new position, as provided in subparagraph 3.

207 d. ~~That~~ Use of artificial limbs is not possible or does not  
 208 alter the member's ability to perform the essential job  
 209 functions of the member's position.

210 e. ~~That~~ The physical loss or loss of use is a direct result  
 211 of a physical injury and not a result of any mental,  
 212 psychological, or emotional injury.

213 2. For the purposes of this paragraph, "qualifying injury"  
 214 means an injury sustained in the line of duty, as certified by  
 215 the member's employing agency, by a special risk member which  
 216 ~~that~~ does not result in total and permanent disability as  
 217 defined in s. 121.091(4) (b). An injury is a qualifying injury if  
 218 the injury is a physical injury to the member's physical body  
 219 resulting in a physical loss, or loss of use, of at least two of  
 220 the following: left arm, right arm, left leg, or right leg.  
 221 Notwithstanding any other provision of this section, an injury  
 222 that would otherwise qualify as a qualifying injury is not  
 223 ~~considered~~ a qualifying injury if and when the member ceases  
 224 employment with the employer for whom he or she was providing  
 225 special risk services on the date the injury occurred.

226 3. The new position, as described in sub-subparagraph 1.c.,  
 227 which ~~that~~ is required for qualification as a special risk  
 228 member under this paragraph is not required to be a position  
 229 with essential job functions that entitle an individual to  
 230 special risk membership. Whether a new position as described in  
 231 sub-subparagraph 1.c. exists and is available to the special  
 232 risk member is a decision to be made solely by the employer in

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233 accordance with its hiring practices and applicable law.

234 4. This paragraph does not grant or create additional  
235 rights for any individual to continued employment or to be hired  
236 or rehired by his or her employer ~~which that~~ are not already  
237 provided ~~by state law within the Florida Statutes~~, the State  
238 Constitution, the Americans with Disabilities Act, if  
239 applicable, or any other ~~applicable state or federal law; or~~

240 (k) Effective July 1, 2020, the member must be employed as  
241 a juvenile justice detention officer I or II or a juvenile  
242 justice detention officer supervisor at the Department of  
243 Juvenile Justice; be certified in accordance with s. 985.66(3);  
244 and have primary duties and responsibilities that include  
245 ensuring the custody, and applying physical restraint when  
246 necessary, of detained youth within a juvenile detention  
247 facility or while being transported, or be the supervisor of a  
248 member who has such duties and responsibilities.

249 Section 2. The Legislature finds that a proper and  
250 legitimate state purpose is served when employees and retirees  
251 of the state and its political subdivisions, and the dependents,  
252 survivors, and beneficiaries of such employees and retirees, are  
253 extended the basic protections afforded by governmental  
254 retirement systems. These persons must be provided benefits that  
255 are fair and adequate and that are managed, administered, and  
256 funded in an actuarially sound manner, as required by s. 14,  
257 Article X of the State Constitution and part VII of chapter 112,  
258 Florida Statutes. Therefore, the Legislature determines and  
259 declares that this act fulfills an important state interest.

260 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)

2/20/20

Meeting Date

1146

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Rachel Mascoso

Job Title Leg. Affairs Director

Address 2737 Centerview Dr.

Phone 850-717-2716

Street

TLH

FL

32308

City

State

Zip

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.**



**THE FLORIDA SENATE**  
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**This form is part of the public record for this meeting.**

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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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. <u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
2. <u>McAuliffe</u>	<u>Hrdlicka</u>	<u>ATD</u>	<b>Recommend: Favorable</b>
3. <u>McAuliffe</u>	<u>Kynoch</u>	<u>AP</u>	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup> 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."<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> A 2016 study determined that 16 Florida counties are underserved by fixed broadband services.<sup>5</sup>

### *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.<sup>6</sup> 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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<sup>1</sup> 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).

<sup>2</sup> 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).

<sup>3</sup> 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.

<sup>4</sup> 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](https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/american_broadband_initiative_milestones_report_feb_2019_0.pdf) (last visited Feb. 1, 2020).

<sup>5</sup> 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](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).

<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

### ***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.<sup>9</sup> 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.<sup>10</sup>

### ***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.<sup>11</sup> Beginning in Fiscal Year 2022-2023, the M-CORES program has designated funding of \$35 million annually.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

### **Federal Broadband Initiatives**

Federal funding for broadband comes from a variety of sources, for example:<sup>15</sup>

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<sup>7</sup> Section 364.0135(3), F.S.

<sup>8</sup> U.S. Department of Commerce, National Telecommunications and Information Administration, *State Broadband Initiative*, <https://www2.ntia.doc.gov/SBDD> (last visited Feb. 1, 2020).

<sup>9</sup> Section 288.0655(2)(b), F.S.

<sup>10</sup> 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](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).

<sup>11</sup> Section 338.2278(1), F.S. See also Florida Department of Transportation, *M-CORES*, <https://floridamcores.com/> (last visited Feb. 1, 2020).

<sup>12</sup> Section 339.0801(2)(b), F.S.

<sup>13</sup> Chapter 2012-131, Laws of Fla.

<sup>14</sup> See footnote 1 of s. 364.0135, F.S.

<sup>15</sup> 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<sup>16</sup> and Department of Education<sup>17</sup> 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<sup>18</sup> to broadband through the ReConnect Program.<sup>19</sup>

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.<sup>20</sup> 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.<sup>21</sup>

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.<sup>22</sup> 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<sup>23</sup> to inform the industry and the public of the availability of broadband Internet in their

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<sup>16</sup> 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).

<sup>17</sup> 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).

<sup>18</sup> Sufficient access is defined as 10 megabits per second downstream and 1 megabit per second upstream. Pub. Law No. 115-334, 115<sup>th</sup> 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).

<sup>19</sup> U.S. Department of Agriculture, *ReConnect Loan and Grant Program: About*, <https://www.usda.gov/reconnect/program-overview> (last visited Feb. 1, 2020).

<sup>20</sup> U.S. Department of Agriculture, *ReConnect Program Evaluation Criteria*, <https://www.usda.gov/reconnect/evaluation-criteria> (last visited Feb. 1, 2020).

<sup>21</sup> U.S. Department of Agriculture, *ReConnect Program Awardees*, <https://www.usda.gov/reconnect/awardees> (last visited Feb. 1, 2020). See also note 19 *supra*.

<sup>22</sup> 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).

<sup>23</sup> See FCC, *Fixed Broadband Deployment*, <https://broadbandmap.fcc.gov/#/> (last visited Feb. 1, 2020).

areas.<sup>24</sup> 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.<sup>25</sup>

## 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)<sup>26</sup> that is adjacent to a multiuse corridor. The currently designated RAOs are:<sup>27</sup>

- 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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<sup>24</sup> 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).

<sup>25</sup> 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).

<sup>26</sup> 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.

<sup>27</sup> 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.”<sup>28</sup> 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.<sup>29</sup>

The DMS indicated that the bill will have no impact on the department.<sup>30</sup>

**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.

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<sup>28</sup> American Broadband Initiative, *supra* note 4 at 27-28.

<sup>29</sup> 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).

<sup>30</sup> 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	.	
	.	
	.	
	.	

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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

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1 A bill to be entitled  
 2 An act relating to broadband Internet service;  
 3 amending s. 339.0801, F.S.; authorizing certain funds  
 4 within the State Transportation Trust Fund to be used  
 5 for certain broadband infrastructure projects within  
 6 or adjacent to multiuse corridors; requiring the  
 7 Department of Transportation to give priority to  
 8 certain projects; amending s. 364.0135, F.S.; defining  
 9 terms; designating the Department of Economic  
 10 Opportunity, and not the Department of Management  
 11 Services, as the lead state entity to facilitate the  
 12 expansion of broadband Internet service in this state;  
 13 requiring the department to work collaboratively with  
 14 certain entities; creating the Florida Office of  
 15 Broadband within the Division of Community Development  
 16 within the Department of Economic Opportunity;  
 17 providing the purpose and duties of the office; making  
 18 technical changes; repealing chapter 2012-131, Laws of  
 19 Florida, relating to broadband Internet service;  
 20 providing an effective date.

21  
 22 Be It Enacted by the Legislature of the State of Florida:

23  
 24 Section 1. Paragraph (b) of subsection (2) of section  
 25 339.0801, Florida Statutes, is amended to read:  
 26 339.0801 Allocation of increased revenues derived from  
 27 amendments to s. 319.32(5) (a) by ch. 2012-128.—Funds that result  
 28 from increased revenues to the State Transportation Trust Fund  
 29 derived from the amendments to s. 319.32(5) (a) made by this act

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

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

33 (2)  
 34 (b) Beginning with the 2022-2023 fiscal year and annually  
 35 thereafter, \$35 million shall be transferred to Florida's  
 36 Turnpike Enterprise, to be used in accordance with s. 338.2278,  
 37 with preference to feeder roads, interchanges, and appurtenances  
 38 that create or facilitate multiuse corridor access and  
 39 connectivity. Of those funds, and to the maximum extent  
 40 feasible, up to \$5 million annually may be used for projects  
 41 that assist in the development of broadband infrastructure  
 42 within or adjacent to a multiuse corridor. The department shall  
 43 give priority consideration to broadband infrastructure projects  
 44 located in an area designated as a rural area of opportunity  
 45 under s. 288.0656 and adjacent to a multiuse corridor.

46 Section 2. Section 364.0135, Florida Statutes, is amended  
 47 to read:

48 364.0135 Promotion of broadband adoption; Florida Office of  
 49 Broadband.—

50 (1) LEGISLATIVE FINDINGS.—The Legislature finds that the  
 51 sustainable adoption of broadband Internet service is critical  
 52 to the economic and business development of ~~this~~ the state and  
 53 is beneficial for libraries, schools, colleges and universities,  
 54 health care providers, and community organizations.

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

56 (a) "Department" means the Department of Economic  
 57 Opportunity.

58 (b) "Office" means the Florida Office of Broadband.

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59 (c) "Sustainable adoption" means the ability for  
60 communications service providers to offer broadband services in  
61 all areas of ~~this the~~ state by encouraging adoption and use  
62 utilization levels that allow for these services to be offered  
63 in the free market absent the need for governmental subsidy.

64 (d) "Underserved" means a geographic area of this state in  
65 which there is no provider of broadband Internet service that  
66 offers a connection to the Internet with a capacity for  
67 transmission at a consistent speed of at least 10 megabits per  
68 second downstream and at least 1 megabit per second upstream.

69 (3)(2) STATE ENTITY.—The department is designated as the  
70 lead state entity to facilitate the expansion of broadband  
71 Internet service in this state. The department shall ~~of~~  
72 ~~Management Services is authorized to~~ work collaboratively with  
73 private businesses, and ~~to~~ receive staffing support and other  
74 resources from, Enterprise Florida, Inc., state agencies, local  
75 governments, ~~private businesses,~~ and community organizations.

76 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of  
77 Broadband is created within the Division of Community  
78 Development within the department for the purpose of developing,  
79 marketing, and promoting broadband Internet services to this  
80 state. The office, in the performance of its duties, shall do  
81 all of the following ~~to~~:

82 (a) ~~Monitor the adoption of broadband Internet service in~~  
83 ~~collaboration with communications service providers, including,~~  
84 ~~but not limited to, wireless and wireline Internet service~~  
85 ~~providers, to develop geographical information system maps at~~  
86 ~~the census tract level that will:~~

87 ~~1. Identify geographic gaps in broadband services,~~

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88 ~~including areas unserved by any broadband provider and areas~~  
89 ~~served by a single broadband provider;~~

90 ~~2. Identify the download and upload transmission speeds~~  
91 ~~made available to businesses and individuals in the state, at~~  
92 ~~the census tract level of detail, using data rate benchmarks for~~  
93 ~~broadband service used by the Federal Communications Commission~~  
94 ~~to reflect different speed tiers; and~~

95 ~~3. Provide a baseline assessment of statewide broadband~~  
96 ~~deployment in terms of percentage of households with broadband~~  
97 ~~availability.~~

98 ~~(b)~~ Create a strategic plan that has goals and strategies  
99 for increasing the use of broadband Internet service in this the  
100 state.

101 (b)(e) Build and facilitate local technology planning teams  
102 or partnerships with members representing cross-sections of the  
103 community, which may include, but are not limited to,  
104 representatives from the following organizations and industries:  
105 libraries, K-12 education, colleges and universities, local  
106 health care providers, private businesses, community  
107 organizations, economic development organizations, local  
108 governments, tourism, parks and recreation, and agriculture.

109 (c)(d) Encourage the use of broadband Internet service,  
110 especially in the rural, unserved, ~~or and~~ underserved  
111 communities of this the state through grant programs having  
112 effective strategies to facilitate the statewide deployment of  
113 broadband Internet service. For any grants to be awarded,  
114 priority must be given to projects that:

115 1. Provide access to broadband education, awareness,  
116 training, access, equipment, and support to libraries, schools,

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117 colleges and universities, health care providers, and community  
118 support organizations.

119 2. Encourage the sustainable adoption of broadband in  
120 primarily unserved and underserved areas by removing barriers to  
121 entry.

122 3. Work toward encouraging investments in establishing  
123 affordable and sustainable broadband Internet service in  
124 unserved and underserved areas of this the state.

125 4. Facilitate the development of applications, programs,  
126 and services, including, but not limited to, telework,  
127 telemedicine, and e-learning to increase the usage of, and  
128 demand for, broadband Internet service in this the state.

129 (d) Monitor, participate in, and provide input on  
130 proceedings of the Federal Communications Commission and other  
131 federal agencies which are related to the geographic  
132 availability and deployment of broadband Internet service in  
133 this state as necessary to ensure that the information is  
134 accurately presented and that rural, unserved, and underserved  
135 areas of this state are best positioned to benefit from federal  
136 and state broadband deployment programs.

137 (5)(3) ADMINISTRATION.—The department may:

138 (a) Apply for and accept federal funds for purposes of this  
139 section, ~~as well as gifts and donations from individuals,~~  
140 ~~foundations, and private organizations.~~

141 ~~(b)(4) The department may~~ Enter into contracts necessary or  
142 useful to carry out the purposes of this section.

143 ~~(c)(5) The department may~~ Establish any committee or  
144 workgroup to administer and carry out the purposes of this  
145 section.

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146 Section 3. Chapter 2012-131, Laws of Florida, is repealed.

147 Section 4. This act shall take effect July 1, 2020.

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The Florida Senate

## Committee Agenda Request

**To:** Senator Rob Bradley, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** February 14, 2020

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I respectfully request that **1166**, relating to Broadband Internet Service, be placed on the:

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

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Senator Ben Albritton  
Florida Senate, District 26

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

Phone 850 245 7145

TALLAHASSEE FL 32399  
City State Zip

Email KARIS.LOCKHART@deo.mtfloridah.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.

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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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.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Favorable</u>
3.	<u>Sneed</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.<sup>1</sup>

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.<sup>2</sup>

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.<sup>3</sup>

## **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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<sup>1</sup> 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).

<sup>2</sup> 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).

<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup>

### ***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.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup>

### ***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.<sup>9</sup>

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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<sup>4</sup> 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).

<sup>5</sup> *Id.*

<sup>6</sup> 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).

<sup>7</sup> *Id.*

<sup>8</sup> Chapter 2019-115, L.O.F. Specific Appropriation 3247.

<sup>9</sup> 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.<sup>10,11</sup>

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.<sup>12</sup>

### ***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.<sup>13</sup>

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<sup>10</sup> 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](http://cap.law.harvard.edu/wp-content/uploads/2015/07/22_miami-child-well-being-court-model.pdf) (last visited October 3, 2019).

<sup>11</sup> 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.

<sup>12</sup> 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).

<sup>13</sup> 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.<sup>14</sup>

Based on the Miami Child Well-Being Court and the New Orleans models,<sup>15,16</sup> 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.<sup>17</sup>

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.<sup>18</sup>

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.<sup>19</sup>

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		

<sup>14</sup> 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).

<sup>15</sup> 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).

<sup>16</sup> *Id.* Safe Babies Courts differ from the other models by providing community coordinators who work with court personnel to keep the process on track.

<sup>17</sup> ZERO TO THREE, Safe Babies Court Teams, available at: <https://www.zerotothree.org/our-work/safe-babies-court-team> (last visited October 1, 2019).

<sup>18</sup> 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).

<sup>19</sup> 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.<sup>20</sup>

- 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.<sup>21</sup>
- 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.<sup>22</sup>

### **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.<sup>23</sup>
- 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;

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<sup>20</sup> Section 39.522, F.S.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> 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.<sup>24</sup>

- 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.

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<sup>24</sup> 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.<sup>25</sup>

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.<sup>26</sup>

## **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

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<sup>25</sup> 65C-13025, F.A.C.

<sup>26</sup> *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.<sup>27</sup>

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.<sup>28</sup>

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.<sup>29</sup>

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.<sup>30</sup>

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.<sup>31</sup>

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<sup>27</sup> QPI Florida, Quality Parenting Initiative, Just in Time Training, available at: <http://www.qpiflorida.org/about.html> (last visited December 26, 2019).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> 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 not 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:<sup>32</sup>

<b>Program and Staffing Requirements</b>	<b>Number of FTE</b>	<b>Recurring Costs</b>	<b>Nonrecurring Costs</b>
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	
<b>Total FTE/Costs for State Courts</b>	<b>21</b>	<b>\$2,198,670</b>	<b>\$51,020</b>

**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:

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<sup>32</sup> 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.





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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



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11 have responsibility for domestic violence cases, and the council  
12 shall provide such instruction on a periodic and timely basis.

13 ~~(2) As used in this subsection, section:~~

14 ~~(a) the term "domestic violence" has the meaning set forth~~  
15 ~~in s. 741.28.~~

16 ~~(b) "Family or household member" has the meaning set forth~~  
17 ~~in s. 741.28.~~

18 (2) The Florida Court Educational Council shall establish  
19 standards for instruction of circuit and county court judges who  
20 have responsibility for dependency cases regarding the benefits  
21 of a secure attachment with a primary caregiver, the importance  
22 of a stable placement, and the impact of trauma on child  
23 development. The council shall provide such instruction to the  
24 circuit and county court judges handling dependency cases on a  
25 periodic and timely basis.

26 Section 2. Section 39.01304, Florida Statutes, is created  
27 to read:

28 39.01304 Early childhood court programs.-

29 (1) A circuit court may create an early childhood court  
30 program to serve the needs of infants and toddlers in dependency  
31 court. If a circuit court creates an early childhood court, it  
32 may consider all of the following components:

33 (a) The court supporting the therapeutic needs of the  
34 parent and child in a nonadversarial manner.

35 (b) A multidisciplinary team made up of key community  
36 stakeholders to work with the court to restructure the way the  
37 community responds to the needs of maltreated children.

38 (c) A community coordinator to facilitate services and  
39 resources for families, serve as a liaison between a



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40 multidisciplinary team and the judiciary, and manage data  
41 collection for program evaluation and accountability. The Office  
42 of the State Courts Administrator may coordinate with each  
43 participating circuit court to fill a community coordinator  
44 position for the circuit's early childhood court program.

45 (d) A continuum of mental health services which includes  
46 those that support the parent-child relationship and are  
47 appropriate for children and family served.

48 (2) The Office of State Courts Administrator shall contract  
49 for an evaluation of the early childhood programs to ensure the  
50 quality, accountability, and fidelity of the programs' evidence-  
51 based treatment. The Office of State Courts Administrator may  
52 provide, or contract for the provision of, training and  
53 technical assistance related to program services, consultation  
54 and guidance for difficult cases, and ongoing training for court  
55 teams.

56 Section 3. Subsection (1) of section 39.0138, Florida  
57 Statutes, is amended to read

58 39.0138 Criminal history and other records checks; limit on  
59 placement of a child.—

60 (1) The department shall conduct a records check through  
61 the State Automated Child Welfare Information System (SACWIS)  
62 and a local and statewide criminal history records check on all  
63 persons, including parents, being considered by the department  
64 for placement of a child under this chapter, including all  
65 nonrelative placement decisions, and all members of the  
66 household, 12 years of age and older, of the person being  
67 considered. For purposes of this section, a criminal history  
68 records check may include, but is not limited to, submission of



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69 fingerprints to the Department of Law Enforcement for processing  
70 and forwarding to the Federal Bureau of Investigation for state  
71 and national criminal history information, and local criminal  
72 records checks through local law enforcement agencies of all  
73 household members 18 years of age and older and other visitors  
74 to the home. Background screenings must be completed within 14  
75 business days after the department receives the criminal history  
76 results, unless additional information regarding the criminal  
77 history is required to complete processing. An out-of-state  
78 criminal history records check must be initiated for any person  
79 18 years of age or older who resided in another state if that  
80 state allows the release of such records. The department shall  
81 establish by rule standards for evaluating any information  
82 contained in the automated system relating to a person who must  
83 be screened for purposes of making a placement decision.

84 Section 4. Subsection (1) and paragraph (a) of subsection  
85 (9) of section 39.301, Florida Statutes, are amended to read:

86 39.301 Initiation of protective investigations.-

87 (1) (a) Upon receiving a report of known or suspected child  
88 abuse, abandonment, or neglect, or that a child is in need of  
89 supervision and care and has no parent, legal custodian, or  
90 responsible adult relative immediately known and available to  
91 provide supervision and care, the central abuse hotline shall  
92 determine if the report requires an immediate onsite protective  
93 investigation. For reports requiring an immediate onsite  
94 protective investigation, the central abuse hotline shall  
95 immediately notify the department's designated district staff  
96 responsible for protective investigations to ensure that an  
97 onsite investigation is promptly initiated. For reports not



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98 requiring an immediate onsite protective investigation, the  
99 central abuse hotline shall notify the department's designated  
100 district staff responsible for protective investigations in  
101 sufficient time to allow for an investigation. At the time of  
102 notification, the central abuse hotline shall also provide  
103 information to district staff on any previous report concerning  
104 a subject of the present report or any pertinent information  
105 relative to the present report or any noted earlier reports.

106 (b) The department shall promptly notify the court of any  
107 report to the central abuse hotline that is accepted for a  
108 protective investigation and involves a child over whom the  
109 court has jurisdiction.

110 (9) (a) For each report received from the central abuse  
111 hotline and accepted for investigation, the department or the  
112 sheriff providing child protective investigative services under  
113 s. 39.3065, shall perform the following child protective  
114 investigation activities to determine child safety:

115 1. Conduct a review of all relevant, available information  
116 specific to the child and family and alleged maltreatment;  
117 family child welfare history; local, state, and federal criminal  
118 records checks; and requests for law enforcement assistance  
119 provided by the abuse hotline. Based on a review of available  
120 information, including the allegations in the current report, a  
121 determination shall be made as to whether immediate consultation  
122 should occur with law enforcement, the Child Protection Team, a  
123 domestic violence shelter or advocate, or a substance abuse or  
124 mental health professional. Such consultations should include  
125 discussion as to whether a joint response is necessary and  
126 feasible. A determination shall be made as to whether the person



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127 making the report should be contacted before the face-to-face  
128 interviews with the child and family members.

129       2. Conduct face-to-face interviews with the child; other  
130 siblings, if any; and the parents, legal custodians, or  
131 caregivers.

132       3. Assess the child's residence, including a determination  
133 of the composition of the family and household, including the  
134 name, address, date of birth, social security number, sex, and  
135 race of each child named in the report; any siblings or other  
136 children in the same household or in the care of the same  
137 adults; the parents, legal custodians, or caregivers; and any  
138 other adults in the same household.

139       4. Determine whether there is any indication that any child  
140 in the family or household has been abused, abandoned, or  
141 neglected; the nature and extent of present or prior injuries,  
142 abuse, or neglect, and any evidence thereof; and a determination  
143 as to the person or persons apparently responsible for the  
144 abuse, abandonment, or neglect, including the name, address,  
145 date of birth, social security number, sex, and race of each  
146 such person.

147       5. Complete assessment of immediate child safety for each  
148 child based on available records, interviews, and observations  
149 with all persons named in subparagraph 2. and appropriate  
150 collateral contacts, which may include other professionals. The  
151 department's child protection investigators are hereby  
152 designated a criminal justice agency for the purpose of  
153 accessing criminal justice information to be used for enforcing  
154 this state's laws concerning the crimes of child abuse,  
155 abandonment, and neglect. This information shall be used solely



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156 for purposes supporting the detection, apprehension,  
157 prosecution, pretrial release, posttrial release, or  
158 rehabilitation of criminal offenders or persons accused of the  
159 crimes of child abuse, abandonment, or neglect and may not be  
160 further disseminated or used for any other purpose.

161         6. Document the present and impending dangers to each child  
162 based on the identification of inadequate protective capacity  
163 through utilization of a standardized safety assessment  
164 instrument. If present or impending danger is identified, the  
165 child protective investigator must implement a safety plan or  
166 take the child into custody. If present danger is identified and  
167 the child is not removed, the child protective investigator  
168 shall create and implement a safety plan before leaving the home  
169 or the location where there is present danger. If impending  
170 danger is identified, the child protective investigator shall  
171 create and implement a safety plan as soon as necessary to  
172 protect the safety of the child. The child protective  
173 investigator may modify the safety plan if he or she identifies  
174 additional impending danger.

175         a. If the child protective investigator implements a safety  
176 plan, the plan must be specific, sufficient, feasible, and  
177 sustainable in response to the realities of the present or  
178 impending danger. A safety plan may be an in-home plan or an  
179 out-of-home plan, or a combination of both. A safety plan may  
180 include tasks or responsibilities for a parent, caregiver, or  
181 legal custodian. However, a safety plan may not rely on  
182 promissory commitments by the parent, caregiver, or legal  
183 custodian who is currently not able to protect the child or on  
184 services that are not available or will not result in the safety



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185 of the child. A safety plan may not be implemented if for any  
186 reason the parents, guardian, or legal custodian lacks the  
187 capacity or ability to comply with the plan. If the department  
188 is not able to develop a plan that is specific, sufficient,  
189 feasible, and sustainable, the department shall file a shelter  
190 petition. A child protective investigator shall implement  
191 separate safety plans for the perpetrator of domestic violence,  
192 if the investigator, using reasonable efforts, can locate the  
193 perpetrator to implement a safety plan, and for the parent who  
194 is a victim of domestic violence as defined in s. 741.28.  
195 Reasonable efforts to locate a perpetrator include, but are not  
196 limited to, a diligent search pursuant to the same requirements  
197 as in s. 39.503. If the perpetrator of domestic violence is not  
198 the parent, guardian, or legal custodian of any child in the  
199 home and if the department does not intend to file a shelter  
200 petition or dependency petition that will assert allegations  
201 against the perpetrator as a parent of a child in the home, the  
202 child protective investigator shall seek issuance of an  
203 injunction authorized by s. 39.504 to implement a safety plan  
204 for the perpetrator and impose any other conditions to protect  
205 the child. The safety plan for the parent who is a victim of  
206 domestic violence may not be shared with the perpetrator. If any  
207 party to a safety plan fails to comply with the safety plan  
208 resulting in the child being unsafe, the department shall file a  
209 shelter petition.

210       b. The child protective investigator shall collaborate with  
211 the community-based care lead agency in the development of the  
212 safety plan as necessary to ensure that the safety plan is  
213 specific, sufficient, feasible, and sustainable. The child





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214 protective investigator shall identify services necessary for  
215 the successful implementation of the safety plan. The child  
216 protective investigator and the community-based care lead agency  
217 shall mobilize service resources to assist all parties in  
218 complying with the safety plan. The community-based care lead  
219 agency shall prioritize safety plan services to families who  
220 have multiple risk factors, including, but not limited to, two  
221 or more of the following:

- 222 (I) The parent or legal custodian is of young age;
- 223 (II) The parent or legal custodian, or an adult currently  
224 living in or frequently visiting the home, has a history of  
225 substance abuse, mental illness, or domestic violence;
- 226 (III) The parent or legal custodian, or an adult currently  
227 living in or frequently visiting the home, has been previously  
228 found to have physically or sexually abused a child;
- 229 (IV) The parent or legal custodian or an adult currently  
230 living in or frequently visiting the home has been the subject  
231 of multiple allegations by reputable reports of abuse or  
232 neglect;
- 233 (V) The child is physically or developmentally disabled; or
- 234 (VI) The child is 3 years of age or younger.

235 c. The child protective investigator shall monitor the  
236 implementation of the plan to ensure the child's safety until  
237 the case is transferred to the lead agency at which time the  
238 lead agency shall monitor the implementation.

239 d. The department may file a petition for shelter or  
240 dependency without a new child protective investigation or the  
241 concurrence of the child protective investigator if the child is  
242 unsafe but for the use of a safety plan and the parent or



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243 caregiver has not sufficiently increased protective capacities  
244 within 90 days after the transfer of the safety plan to the lead  
245 agency.

246 Section 5. Subsection (1) of section 39.522, Florida  
247 Statutes, is amended, and subsection (4) is added to that  
248 section, to read:

249 39.522 Postdisposition change of custody.—The court may  
250 change the temporary legal custody or the conditions of  
251 protective supervision at a postdisposition hearing, without the  
252 necessity of another adjudicatory hearing.

253 (1) (a) At any time before a child is residing in the  
254 permanent placement approved at the permanency hearing, a child  
255 who has been placed in the child's own home under the protective  
256 supervision of an authorized agent of the department, in the  
257 home of a relative, in the home of a legal custodian, or in some  
258 other place may be brought before the court by the department or  
259 by any other interested person, upon the filing of a motion  
260 alleging a need for a change in the conditions of protective  
261 supervision or the placement. If the parents or other legal  
262 custodians deny the need for a change, the court shall hear all  
263 parties in person or by counsel, or both. Upon the admission of  
264 a need for a change or after such hearing, the court shall enter  
265 an order changing the placement, modifying the conditions of  
266 protective supervision, or continuing the conditions of  
267 protective supervision as ordered. The standard for changing  
268 custody of the child shall be the best interests ~~interest~~ of the  
269 child. When determining whether a change of legal custody or  
270 placement is in ~~applying this standard, the court shall consider~~  
271 ~~the continuity of the child's placement in the same out-of-home~~



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272 ~~residence as a factor when determining~~ the best interests of the  
273 child, the court shall consider:

274 1. The child's age.

275 2. The physical, mental, and emotional health benefits to  
276 the child by remaining in his or her current placement or moving  
277 to the proposed placement.

278 3. The stability and longevity of the child's current  
279 placement.

280 4. The established bonded relationship between the child  
281 and the current or proposed caregiver.

282 5. The reasonable preference of the child, if the court has  
283 found that the child is of sufficient intelligence,  
284 understanding, and experience to express a preference.

285 6. The recommendation of the child's current caregiver.

286 7. The recommendation of the child's guardian ad litem, if  
287 one has been appointed.

288 8. The child's previous and current relationship with a  
289 sibling, if the change of legal custody or placement will  
290 separate or reunite siblings.

291 9. The impact on visitation with siblings, parents, kin,  
292 and any other person important to the child.

293 10. The likelihood of the child attaining permanency in the  
294 current or proposed placement.

295 11. The likelihood the child will have to change schools or  
296 day care placement, the impact of such change on the child, and  
297 the parties' recommendations as to the timing on the change.

298 12. The disruption in medical, mental, dental, or health  
299 care or other treatment that will be caused by the move.

300 13. The impact on activities that are important to the



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301 child.

302 14. The likelihood the move will impact on the child's  
303 future access to education, Medicaid, and independent living  
304 benefits.

305 15. Any other relevant factors.

306 (b) If the child is not placed in foster care, ~~then~~ the new  
307 placement for the child must meet the home study criteria and  
308 court approval ~~under pursuant to~~ this chapter.

309 (4) (a) The court or any party to the case may file a  
310 petition to place a child in out-of-home care after the child  
311 was placed in the child's own home with an in-home safety plan  
312 or the child was reunified with a parent or caregiver with an  
313 in-home safety plan if:

314 1. The child has again been abused, neglected, or abandoned  
315 by the parent or caregiver, or is suffering from or is in  
316 imminent danger of illness or injury as a result of abuse,  
317 neglect, or abandonment that has reoccurred; or

318 2. The parent or caregiver has materially violated a  
319 condition of placement imposed by the court, including, but not  
320 limited to, not complying with the in-home safety plan or case  
321 plan.

322 (b) If a child meets the criteria in paragraph (a) to be  
323 removed and placed in out-of-home care, the court must consider,  
324 at a minimum, the following in making its determination to  
325 remove the child and place the child in out-of-home care:

326 1. The circumstances that caused the child's dependency and  
327 other subsequently identified issues.

328 2. The length of time the child has been placed in the home  
329 with an in-home safety plan.



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330           3. The parent's or caregiver's current level of protective  
331 capacities.

332           4. The level of increase, if any, in the parent's or  
333 caregiver's protective capacities since the child's placement in  
334 the home based on the length of time the child has been placed  
335 in the home.

336           5. The compliance of all parties with any case plan, safety  
337 plan or court order.

338           6. The preference of the child.

339           7. The likely placement for the child.

340           8. Whether the child will have to change schools or day  
341 care placement. The impact of such change on the child.

342           9. The disruption in medical, mental, dental, health care  
343 or other treatment that will be caused by the removal.

344           10. The impact on visitation with siblings, kin and any  
345 other person important to the child.

346           11. The impact on activities that are important to the  
347 child.

348           (c) The court shall evaluate the child's permanency goal  
349 and change the permanency goal as needed if doing so would be in  
350 the best interests of the child.

351           Section 6. Subsection (5) of section 39.6011, Florida  
352 Statutes, is amended to read:

353           39.6011 Case plan development.—

354           (5) The case plan must describe all of the following:

355           (a) The role of the foster parents or caregivers ~~legal~~  
356 ~~custodians~~ when developing the services that are to be provided  
357 to the child, foster parents, or caregivers. ~~legal custodians;~~

358           (b) The responsibilities of the parents, caregivers and



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359 caseworkers to work together when safe to do so, including:

360 1. How parents and caregivers will work together to  
361 successfully to implement the case plan.

362 2. How the case manager will assist the parents and  
363 caregivers in developing a productive relationship that includes  
364 meaningful communication and mutual support.

365 3. How the parents or caregivers are to notify the court or  
366 the case manager if ineffective communication takes place that  
367 negatively impacts the child.

368 (d) ~~(b)~~ The responsibility of the case manager to forward a  
369 relative's request to receive notification of all proceedings  
370 and hearings submitted under ~~pursuant to~~ s. 39.301(14) (b) to the  
371 attorney for the department.

372 (d) ~~(e)~~ The minimum number of face-to-face meetings to be  
373 held each month between the parents and the case worker  
374 ~~department's family services counselors~~ to review the progress  
375 of the plan and services to the child, to eliminate barriers to  
376 progress, and to resolve conflicts or disagreements between  
377 parents and caregivers, service providers, or any other  
378 professional assisting the parents in the completion of the case  
379 plan.; ~~and~~

380 (e) ~~(d)~~ The parent's responsibility for financial support of  
381 the child, including, but not limited to, health insurance and  
382 child support. The case plan must list the costs associated with  
383 any services or treatment that the parent and child are expected  
384 to receive which are the financial responsibility of the parent.  
385 The determination of child support and other financial support  
386 shall be made independently of any determination of indigency  
387 under s. 39.013.



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388 Section 7. Paragraph (b) of subsection (1) and paragraphs  
389 (a) and (c) of subsection (2) of section 39.701, Florida  
390 Statutes, are amended to read:

391 39.701 Judicial review.—

392 (1) GENERAL PROVISIONS.—

393 (b)1. The court shall retain jurisdiction over a child  
394 returned to his or her parents for a minimum period of 6 months  
395 following the reunification, but, at that time, based on a  
396 report of the social service agency and the guardian ad litem,  
397 if one has been appointed, and any other relevant factors, the  
398 court shall make a determination as to whether supervision by  
399 the department and the court's jurisdiction shall continue or be  
400 terminated.

401 2. Notwithstanding subparagraph 1., the court must retain  
402 jurisdiction over a child if the child is placed in the home  
403 with a parent or caregiver with an in-home safety plan and such  
404 safety plan remains necessary for the child to reside safely in  
405 the home.

406 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF  
407 AGE.—

408 (a) *Social study report for judicial review.*—Before every  
409 judicial review hearing or citizen review panel hearing, the  
410 social service agency shall make an investigation and social  
411 study concerning all pertinent details relating to the child and  
412 shall furnish to the court or citizen review panel a written  
413 report that includes, but is not limited to:

414 1. A description of the type of placement the child is in  
415 at the time of the hearing, including the safety of the child  
416 and the continuing necessity for and appropriateness of the



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417 placement.

418           2. Documentation of the diligent efforts made by all  
419 parties to the case plan to comply with each applicable  
420 provision of the plan.

421           3. The amount of fees assessed and collected during the  
422 period of time being reported.

423           4. The services provided to the foster family or caregiver  
424 ~~legal custodian~~ in an effort to address the needs of the child  
425 as indicated in the case plan.

426           5. A statement that either:

427           a. The parent, though able to do so, did not comply  
428 substantially with the case plan, and the agency  
429 recommendations;

430           b. The parent did substantially comply with the case plan;  
431 or

432           c. The parent has partially complied with the case plan,  
433 with a summary of additional progress needed and the agency  
434 recommendations.

435           6. A statement from the foster parent or caregiver ~~legal~~  
436 ~~custodian~~ providing any material evidence concerning the well-  
437 being of the child, the impact of any services provided to the  
438 child, the working relationship between the parents and  
439 caregivers, and the return of the child to the parent or  
440 parents.

441           7. A statement concerning the frequency, duration, and  
442 results of the parent-child visitation, if any, and the agency  
443 and caregiver recommendations for an expansion or restriction of  
444 future visitation.

445           8. The number of times a child has been removed from his or





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446 her home and placed elsewhere, the number and types of  
447 placements that have occurred, and the reason for the changes in  
448 placement.

449 9. The number of times a child's educational placement has  
450 been changed, the number and types of educational placements  
451 which have occurred, and the reason for any change in placement.

452 10. If the child has reached 13 years of age but is not yet  
453 18 years of age, a statement from the caregiver on the progress  
454 the child has made in acquiring independent living skills.

455 11. Copies of all medical, psychological, and educational  
456 records that support the terms of the case plan and that have  
457 been produced concerning the parents or any caregiver since the  
458 last judicial review hearing.

459 12. Copies of the child's current health, mental health,  
460 and education records as identified in s. 39.6012.

461 (c) *Review determinations.*—The court and any citizen review  
462 panel shall take into consideration the information contained in  
463 the social services study and investigation and all medical,  
464 psychological, and educational records that support the terms of  
465 the case plan; testimony by the social services agency, the  
466 parent, the foster parent or caregiver ~~legal custodian~~, the  
467 guardian ad litem or surrogate parent for educational  
468 decisionmaking if one has been appointed for the child, and any  
469 other person deemed appropriate; and any relevant and material  
470 evidence submitted to the court, including written and oral  
471 reports to the extent of their probative value. These reports  
472 and evidence may be received by the court in its effort to  
473 determine the action to be taken with regard to the child and  
474 may be relied upon to the extent of their probative value, even



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475 though not competent in an adjudicatory hearing. In its  
476 deliberations, the court and any citizen review panel shall seek  
477 to determine:

478 1. If the parent was advised of the right to receive  
479 assistance from any person or social service agency in the  
480 preparation of the case plan.

481 2. If the parent has been advised of the right to have  
482 counsel present at the judicial review or citizen review  
483 hearings. If not so advised, the court or citizen review panel  
484 shall advise the parent of such right.

485 3. If a guardian ad litem needs to be appointed for the  
486 child in a case in which a guardian ad litem has not previously  
487 been appointed or if there is a need to continue a guardian ad  
488 litem in a case in which a guardian ad litem has been appointed.

489 4. Who holds the rights to make educational decisions for  
490 the child. If appropriate, the court may refer the child to the  
491 district school superintendent for appointment of a surrogate  
492 parent or may itself appoint a surrogate parent under the  
493 Individuals with Disabilities Education Act and s. 39.0016.

494 5. The compliance or lack of compliance of all parties with  
495 applicable items of the case plan, including the parents'  
496 compliance with child support orders.

497 6. The compliance or lack of compliance with a visitation  
498 contract between the parent and the social service agency for  
499 contact with the child, including the frequency, duration, and  
500 results of the parent-child visitation and the reason for any  
501 noncompliance.

502 7. The frequency, kind, and duration of contacts among  
503 siblings who have been separated during placement, as well as



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504 any efforts undertaken to reunite separated siblings if doing so  
505 is in the best interests ~~interest~~ of the child.

506 8. The compliance or lack of compliance of the parent in  
507 meeting specified financial obligations pertaining to the care  
508 of the child, including the reason for failure to comply, if  
509 applicable.

510 9. Whether the child is receiving safe and proper care  
511 according to s. 39.6012, including, but not limited to, the  
512 appropriateness of the child's current placement, including  
513 whether the child is in a setting that is as family-like and as  
514 close to the parent's home as possible, consistent with the  
515 child's best interests and special needs, and including  
516 maintaining stability in the child's educational placement, as  
517 documented by assurances from the community-based care lead  
518 agency ~~provider~~ that:

519 a. The placement of the child takes into account the  
520 appropriateness of the current educational setting and the  
521 proximity to the school in which the child is enrolled at the  
522 time of placement.

523 b. The community-based care lead agency has coordinated  
524 with appropriate local educational agencies to ensure that the  
525 child remains in the school in which the child is enrolled at  
526 the time of placement.

527 10. A projected date likely for the child's return home or  
528 other permanent placement.

529 11. When appropriate, the basis for the unwillingness or  
530 inability of the parent to become a party to a case plan. The  
531 court and the citizen review panel shall determine if the  
532 efforts of the social service agency to secure party



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533 participation in a case plan were sufficient.

534         12. For a child who has reached 13 years of age but is not  
535 yet 18 years of age, the adequacy of the child's preparation for  
536 adulthood and independent living. For a child who is 15 years of  
537 age or older, the court shall determine if appropriate steps are  
538 being taken for the child to obtain a driver license or  
539 learner's driver license.

540         13. If amendments to the case plan are required. Amendments  
541 to the case plan must be made under s. 39.6013.

542         14. If the parents and caregivers have developed a  
543 productive relationship that includes meaningful communication  
544 and mutual support.

545         Section 8. Subsection (3) of section 63.092, Florida  
546 Statutes, is amended to read:

547         63.092 Report to the court of intended placement by an  
548 adoption entity; at-risk placement; preliminary study.—

549         (3) PRELIMINARY HOME STUDY.—Before placing the minor in the  
550 intended adoptive home, a preliminary home study must be  
551 performed by a licensed child-placing agency, a child-caring  
552 agency registered under s. 409.176, a licensed professional, or  
553 an agency described in s. 61.20(2), unless the adoptee is an  
554 adult or the petitioner is a stepparent or a relative. If the  
555 adoptee is an adult or the petitioner is a stepparent or a  
556 relative, a preliminary home study may be required by the court  
557 for good cause shown. The department is required to perform the  
558 preliminary home study only if there is no licensed child-  
559 placing agency, child-caring agency registered under s. 409.176,  
560 licensed professional, or agency described in s. 61.20(2), in  
561 the county where the prospective adoptive parents reside. The



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562 preliminary home study must be made to determine the suitability  
563 of the intended adoptive parents and may be completed prior to  
564 identification of a prospective adoptive minor. Preliminary home  
565 studies initiated for identified prospective adoptive minors  
566 that are in the custody of the department must be completed  
567 within 30 days of initiation. A favorable preliminary home study  
568 is valid for 1 year after the date of its completion. Upon its  
569 completion, a signed copy of the home study must be provided to  
570 the intended adoptive parents who were the subject of the home  
571 study. A minor may not be placed in an intended adoptive home  
572 before a favorable preliminary home study is completed unless  
573 the adoptive home is also a licensed foster home under s.  
574 409.175. The preliminary home study must include, at a minimum:  
575       (a) An interview with the intended adoptive parents;  
576       (b) Records checks of the department's central abuse  
577 registry, which the department shall provide to the entity  
578 conducting the preliminary home study, and criminal records  
579 correspondence checks under s. 39.0138 through the Department of  
580 Law Enforcement on the intended adoptive parents;  
581       (c) An assessment of the physical environment of the home;  
582       (d) A determination of the financial security of the  
583 intended adoptive parents;  
584       (e) Documentation of counseling and education of the  
585 intended adoptive parents on adoptive parenting, as determined  
586 by the entity conducting the preliminary home study. The  
587 training specified in s. 409.175(14) shall only be required for  
588 persons who adopt children from the department;  
589       (f) Documentation that information on adoption and the  
590 adoption process has been provided to the intended adoptive



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591 parents;

592 (g) Documentation that information on support services  
593 available in the community has been provided to the intended  
594 adoptive parents; and

595 (h) A copy of each signed acknowledgment of receipt of  
596 disclosure required by s. 63.085.

597

598 If the preliminary home study is favorable, a minor may be  
599 placed in the home pending entry of the judgment of adoption. A  
600 minor may not be placed in the home if the preliminary home  
601 study is unfavorable. If the preliminary home study is  
602 unfavorable, the adoption entity may, within 20 days after  
603 receipt of a copy of the written recommendation, petition the  
604 court to determine the suitability of the intended adoptive  
605 home. A determination as to suitability under this subsection  
606 does not act as a presumption of suitability at the final  
607 hearing. In determining the suitability of the intended adoptive  
608 home, the court must consider the totality of the circumstances  
609 in the home. A minor may not be placed in a home in which there  
610 resides any person determined by the court to be a sexual  
611 predator as defined in s. 775.21 or to have been convicted of an  
612 offense listed in s. 63.089(4)(b)2.

613 Section 9. Section 63.093, Florida Statutes, is created to  
614 read:

615 63.093 Adoption of a child from the child welfare system.-  
616 The adoption of a child from Florida's foster care system is a  
617 process that typically includes an orientation session, an in-  
618 depth training program to help prospective parents determine if  
619 adoption is right for the family, a home study, and a background



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620 check. Once the process has been completed, prospective parents  
621 are ready to be matched with a child available for adoption.

622 (1) The prospective adoptive parents' initial inquiry to  
623 the department or to the community-based care lead agency or  
624 subcontractor staff, whether written or verbal, must receive a  
625 written response or a telephone call from the department or  
626 agency or subcontractor staff, as applicable, within 7 business  
627 days after receipt of the inquiry. Prospective adoptive parents  
628 who indicate an interest in adopting children in the custody of  
629 the department must be referred by the department or agency or  
630 subcontractor staff to a department-approved adoptive parent  
631 training program as prescribed in rule.

632 (2) An application to adopt must be made on the "Adoptive  
633 Home Application" published by the department.

634 (3) An adoptive home study that includes observation,  
635 screening, and evaluation of the child and adoptive applicants  
636 must be completed by a staff person with the community-based  
637 care lead agency, the subcontractor agency, or another licensed  
638 child-placing agency prior to the adoptive placement of the  
639 child. The purpose of this evaluation is to select families who  
640 will be able to meet the physical, emotional, social,  
641 educational, and financial needs of a child, while safeguarding  
642 the child from further loss and separation from siblings and  
643 significant adults. The adoptive home study is valid for 12  
644 months from the approval date.

645 (4) In addition to other required documentation, an  
646 adoptive parent application file must include the adoptive home  
647 study and verification that all background screening  
648 requirements have been met.



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649       (5) The department-approved adoptive parent training must  
650 be provided to and successfully completed by all prospective  
651 adoptive parents except licensed foster parents and relative and  
652 nonrelative caregivers who previously attended the training  
653 within the last 5 years, as prescribed in rule, or have the  
654 child currently placed in their home for 6 months or longer, and  
655 been determined to understand the challenges and parenting  
656 skills needed to successfully parent the children available for  
657 adoption from foster care.

658       (6) At the conclusion of the preparation and study process,  
659 the counselor and supervisor shall make a decision about the  
660 family's appropriateness to adopt. The decision to approve or  
661 not to approve will be reflected in the final recommendation  
662 included in the home study. If the recommendation is for  
663 approval, the adoptive parent application file must be submitted  
664 to the community-based lead agency or subcontractor agency for  
665 approval, which must be made within 14 business days.

666  
667 With the exception of subsection (1), the provisions of this  
668 section do not apply to children adopted through the process  
669 provided for in s. 63.082(6). The intent of the language is to  
670 not include private adoptions and interventions.

671       Section 10. Section 409.1415, Florida Statutes, is created  
672 to read:

673       409.1415 Parenting partnerships for children in out-of-home  
674 care.—

675       (1) LEGISLATIVE FINDINGS AND INTENT.—

676       (a) The Legislature finds that reunification is the most  
677 common outcome for children in out-of-home care and that





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678 caregivers are one of the most important resources to help  
679 children reunify with their families.

680 (b) The Legislature further finds that the most successful  
681 caregivers understand that their role goes beyond supporting the  
682 children in their care to supporting the children's families, as  
683 a whole, and that children and their families benefit when  
684 caregivers and birth parents are supported by an agency culture  
685 that encourages a meaningful partnership between them and  
686 provides quality support.

687 (c) Therefore, in keeping with national trends, it is the  
688 intent of the Legislature to bring birth parents and caregivers  
689 together in order to build strong relationships that lead to  
690 more successful reunifications and more stability for children  
691 being fostered in out-of-home care.

692 (2) PARENTING PARTNERSHIPS.—

693 (a) General provisions.—In order to ensure that children in  
694 out-of-home care achieve legal permanency as soon as possible,  
695 to reduce the likelihood that they will re-enter care or that  
696 other children in the family are abused or neglected or enter  
697 out-of-home care, and to ensure that families are fully prepared  
698 to resume custody of their children, the department and  
699 community-based care lead agencies shall develop and support  
700 relationships between caregivers and the legal parents of  
701 children in out-of-home care to the extent that it is safe and  
702 in the child's best interest, by:

703 1. Facilitating telephone communication between the  
704 caregiver and the birth or legal parent as soon as possible  
705 after the child is placed in the home.

706 2. Facilitating and attending an in-person meeting between



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707 the caregiver and the birth or legal parent as soon as possible  
708 after placement.

709 3. Developing and supporting a plan for birth or legal  
710 parents to participate in medical appointments, educational and  
711 extracurricular activities, and other events involving the  
712 child.

713 4. Facilitating participation by the caregiver in  
714 visitation between the birth parent and the child.

715 5. Involving the caregiver in planning meetings with the  
716 birth parent.

717 6. Developing and implementing effective transition plans  
718 for the child's return home or placement in any other living  
719 environment.

720 7. Supporting continued contact between the caregiver and  
721 the child after the child returns home or moves to another  
722 permanent living arrangement.

723 (b) Responsibilities.-To ensure that a child in out-of-home  
724 care receives support for healthy development which gives him or  
725 her the best possible opportunity for success, caregivers, birth  
726 parents, the department, community-based care lead agency staff,  
727 and other agency staff, as applicable, shall work cooperatively  
728 in a respectful partnership by adhering to the following  
729 requirements:

730 1. All members of the partnership must interact and  
731 communicate professionally with one another, must share all  
732 relevant information promptly, and must respect the  
733 confidentiality of all information related to a child and his or  
734 her family.

735 2. Caregivers, the family, the child if appropriate, the



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736 department, community-based care lead agency staff, and other  
737 agency staff must participate in developing a case plan for the  
738 child and family, and all members of the team must work together  
739 to implement the plan. Caregivers must participate in all team  
740 meetings or court hearings related to the child's care and  
741 future plans. The department, community-based care lead agency  
742 staff, and other agency staff must support and facilitate  
743 caregiver participation through timely notification of such  
744 meetings and hearings and an inclusive process, and by providing  
745 alternative methods for participation for caregivers who cannot  
746 be physically present at a meeting or hearing.

747 3. Excellent parenting is a reasonable expectation of  
748 caregivers. Caregivers must provide, and the department,  
749 community-based care lead agency staff, and other agency staff  
750 must support, excellent parenting. As used in this subparagraph,  
751 the term "excellent parenting" means a loving commitment to the  
752 child and the child's safety and well-being; appropriate  
753 supervision and positive methods of discipline; encouragement of  
754 the child's strengths; respect for the child's individuality and  
755 likes and dislikes; providing opportunities for the child to  
756 develop interests and skills; being aware of the impact of  
757 trauma on behavior; facilitating equal participation of the  
758 child in family life; involving the child within his or her  
759 community; and a commitment to enable the child to lead a normal  
760 life.

761 4. Children in out-of-home care may be placed only with a  
762 caregiver who has the ability to care for the child; is willing  
763 to accept responsibility for providing care; and is willing and  
764 able to learn about and be respectful of the child's culture,



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765 religion, and ethnicity, his or her special physical or  
766 psychological needs, any circumstances unique to the child, and  
767 family relationships. The department, the community-based care  
768 lead agency, and other agencies must provide a caregiver with  
769 all available information necessary to assist the caregiver in  
770 determining whether he or she is able to appropriately care for  
771 a particular child.

772 5. A caregiver must have access to and take advantage of  
773 all training that he or she needs to improve his or her skills  
774 in parenting a child who has experienced trauma due to neglect,  
775 abuse, or separation from home; to meet the child's special  
776 needs; and to work effectively with child welfare agencies, the  
777 courts, the schools, and other community and governmental  
778 agencies.

779 6. The department, community-based care lead agency staff,  
780 and other agency staff must provide caregivers with the services  
781 and support they need to enable them to provide quality care for  
782 the child.

783 7. Once a caregiver accepts the responsibility of caring  
784 for a child, the child may be removed from that caregiver only  
785 if the caregiver is clearly unable to care for him or her safely  
786 or legally, when the child and his or her biological family are  
787 reunified, when the child is being placed in a legally permanent  
788 home in accordance with a case plan or court order, or when the  
789 removal is demonstrably in the best interests of the child.

790 8. If a child must leave the caregiver's home for one of  
791 the reasons stated in subparagraph 7., and in the absence of an  
792 unforeseeable emergency, the transition must be accomplished  
793 according to a plan that involves cooperation and sharing of



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794 information among all persons involved, respects the child's  
795 developmental stage and psychological needs, ensures the child  
796 has all of his or her belongings, allows for a gradual  
797 transition from the caregiver's home, and, if possible, allows  
798 for continued contact with the caregiver after the child leaves.

799 9. When the plan for a child includes reunification,  
800 caregivers and agency staff must work together to assist the  
801 biological parents in improving their ability to care for and  
802 protect their children and to provide continuity for the child.

803 10. A caregiver must respect and support the child's ties  
804 to his or her biological family, including parents, siblings,  
805 and extended family members, and must assist the child in  
806 visitation and other forms of communication. The department,  
807 community-based care lead agency staff, and other agency staff  
808 must provide caregivers with the information, guidance,  
809 training, and support necessary for fulfilling this  
810 responsibility.

811 11. A caregiver must work in partnership with the  
812 department, community-based care lead agency staff, and other  
813 agency staff to obtain and maintain records that are important  
814 to the child's well-being including, but not limited to, child  
815 resource records, medical records, school records, photographs,  
816 and records of special events and achievements.

817 12. A caregiver must effectively advocate for a child in  
818 his or her care with the child welfare system, the court, and  
819 community agencies, including schools, child care providers,  
820 health and mental health providers, and employers. The  
821 department, community-based care lead agency staff, and other  
822 agency staff must support a caregiver in effectively advocating



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823 for a child and may not retaliate against the caregiver as a  
824 result of this advocacy.

825 13. A caregiver must be as fully involved in the child's  
826 medical, psychological, and dental care as he or she would be  
827 for his or her biological child. Agency staff must support and  
828 facilitate such participation. Caregivers, the department,  
829 community-based care lead agency staff, and other agency staff  
830 must share information with each other about the child's health  
831 and well-being.

832 14. A caregiver must support a child's school success,  
833 including, when possible, maintaining school stability by  
834 participating in school activities and meetings, including  
835 individual education plan meetings; assisting with school  
836 assignments; supporting tutoring programs; meeting with teachers  
837 and working with an educational surrogate, if one has been  
838 appointed; and encouraging the child's participation in  
839 extracurricular activities. Agency staff must facilitate this  
840 participation and must be kept informed of the child's progress  
841 and needs.

842 15. Caregivers must ensure that the child in the  
843 caregiver's care who is between 13 and 17 years of age learns  
844 and masters independent living skills and is aware of the  
845 requirements and benefits of the Road-to-Independence Program.

846 16. Caseworkers and caseworker supervisors must mediate  
847 disagreements that occur between caregivers and birth parents.

848 (c) Residential group homes.—All employees, including  
849 persons who do not work directly with children, of a residential  
850 group home must meet the background screening requirements under  
851 s. 39.0138 and the level 2 standards for screening under chapter



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852 435. All employees in residential group homes working directly  
853 with children as caregivers must meet, at a minimum, the same  
854 education and, training, and background and other screening  
855 requirements as level 2 licensed foster parents.

856 (3) RULEMAKING.—The department shall adopt by rule  
857 procedures to administer this section.

858 Section 11. Section 409.145, Florida Statutes, is amended  
859 to read:

860 409.145 Care of children; ~~quality parenting~~; “reasonable  
861 and prudent parent” standard.—The child welfare system of the  
862 department shall operate as a coordinated community-based system  
863 of care which empowers all caregivers for children in foster  
864 care to provide quality parenting, including approving or  
865 disapproving a child’s participation in activities based on the  
866 caregiver’s assessment using the “reasonable and prudent parent”  
867 standard.

868 (1) SYSTEM OF CARE.—The department shall develop,  
869 implement, and administer a coordinated community-based system  
870 of care for children who are found to be dependent and their  
871 families. This system of care must be directed toward the  
872 following goals:

873 (a) Prevention of separation of children from their  
874 families.

875 (b) Intervention to allow children to remain safely in  
876 their own homes.

877 (c) Reunification of families who have had children removed  
878 from their care.

879 (d) Safety for children who are separated from their  
880 families by providing alternative emergency or longer-term



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881 parenting arrangements.

882 (e) Focus on the well-being of children through emphasis on  
883 maintaining educational stability and providing timely health  
884 care.

885 (f) Permanency for children for whom reunification with  
886 their families is not possible or is not in the best interest of  
887 the child.

888 (g) The transition to independence and self-sufficiency for  
889 older children who remain in foster care through adolescence.

890 ~~(2) QUALITY PARENTING. A child in foster care shall be~~  
891 ~~placed only with a caregiver who has the ability to care for the~~  
892 ~~child, is willing to accept responsibility for providing care,~~  
893 ~~and is willing and able to learn about and be respectful of the~~  
894 ~~child's culture, religion and ethnicity, special physical or~~  
895 ~~psychological needs, any circumstances unique to the child, and~~  
896 ~~family relationships. The department, the community-based care~~  
897 ~~lead agency, and other agencies shall provide such caregiver~~  
898 ~~with all available information necessary to assist the caregiver~~  
899 ~~in determining whether he or she is able to appropriately care~~  
900 ~~for a particular child.~~

901 ~~(a) Roles and responsibilities of caregivers. A caregiver~~  
902 ~~shall:~~

903 ~~1. Participate in developing the case plan for the child~~  
904 ~~and his or her family and work with others involved in his or~~  
905 ~~her care to implement this plan. This participation includes the~~  
906 ~~caregiver's involvement in all team meetings or court hearings~~  
907 ~~related to the child's care.~~

908 ~~2. Complete all training needed to improve skills in~~  
909 ~~parenting a child who has experienced trauma due to neglect,~~





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910 ~~abuse, or separation from home, to meet the child's special~~  
911 ~~needs, and to work effectively with child welfare agencies, the~~  
912 ~~court, the schools, and other community and governmental~~  
913 ~~agencies.~~

914 ~~3. Respect and support the child's ties to members of his~~  
915 ~~or her biological family and assist the child in maintaining~~  
916 ~~allowable visitation and other forms of communication.~~

917 ~~4. Effectively advocate for the child in the caregiver's~~  
918 ~~care with the child welfare system, the court, and community~~  
919 ~~agencies, including the school, child care, health and mental~~  
920 ~~health providers, and employers.~~

921 ~~5. Participate fully in the child's medical, psychological,~~  
922 ~~and dental care as the caregiver would for his or her biological~~  
923 ~~child.~~

924 ~~6. Support the child's educational success by participating~~  
925 ~~in activities and meetings associated with the child's school or~~  
926 ~~other educational setting, including Individual Education Plan~~  
927 ~~meetings and meetings with an educational surrogate if one has~~  
928 ~~been appointed, assisting with assignments, supporting tutoring~~  
929 ~~programs, and encouraging the child's participation in~~  
930 ~~extracurricular activities.~~

931 ~~a. Maintaining educational stability for a child while in~~  
932 ~~out-of-home care by allowing the child to remain in the school~~  
933 ~~or educational setting that he or she attended before entry into~~  
934 ~~out-of-home care is the first priority, unless not in the best~~  
935 ~~interest of the child.~~

936 ~~b. If it is not in the best interest of the child to remain~~  
937 ~~in his or her school or educational setting upon entry into out-~~  
938 ~~of-home care, the caregiver must work with the case manager,~~



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939 ~~guardian ad litem, teachers and guidance counselors, and~~  
940 ~~educational surrogate if one has been appointed to determine the~~  
941 ~~best educational setting for the child. Such setting may include~~  
942 ~~a public school that is not the school of origin, a private~~  
943 ~~school pursuant to s. 1002.42, a virtual instruction program~~  
944 ~~pursuant to s. 1002.45, or a home education program pursuant to~~  
945 ~~s. 1002.41.~~

946 ~~7. Work in partnership with other stakeholders to obtain~~  
947 ~~and maintain records that are important to the child's well-~~  
948 ~~being, including child resource records, medical records, school~~  
949 ~~records, photographs, and records of special events and~~  
950 ~~achievements.~~

951 ~~8. Ensure that the child in the caregiver's care who is~~  
952 ~~between 13 and 17 years of age learns and masters independent~~  
953 ~~living skills.~~

954 ~~9. Ensure that the child in the caregiver's care is aware~~  
955 ~~of the requirements and benefits of the Road-to-Independence~~  
956 ~~Program.~~

957 ~~10. Work to enable the child in the caregiver's care to~~  
958 ~~establish and maintain naturally occurring mentoring~~  
959 ~~relationships.~~

960 ~~(b) Roles and responsibilities of the department, the~~  
961 ~~community-based care lead agency, and other agency staff. The~~  
962 ~~department, the community-based care lead agency, and other~~  
963 ~~agency staff shall:~~

964 ~~1. Include a caregiver in the development and~~  
965 ~~implementation of the case plan for the child and his or her~~  
966 ~~family. The caregiver shall be authorized to participate in all~~  
967 ~~team meetings or court hearings related to the child's care and~~



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968 ~~future plans. The caregiver's participation shall be facilitated~~  
969 ~~through timely notification, an inclusive process, and~~  
970 ~~alternative methods for participation for a caregiver who cannot~~  
971 ~~be physically present.~~

972 ~~2. Develop and make available to the caregiver the~~  
973 ~~information, services, training, and support that the caregiver~~  
974 ~~needs to improve his or her skills in parenting children who~~  
975 ~~have experienced trauma due to neglect, abuse, or separation~~  
976 ~~from home, to meet these children's special needs, and to~~  
977 ~~advocate effectively with child welfare agencies, the courts,~~  
978 ~~schools, and other community and governmental agencies.~~

979 ~~3. Provide the caregiver with all information related to~~  
980 ~~services and other benefits that are available to the child.~~

981 ~~4. Show no prejudice against a caregiver who desires to~~  
982 ~~educate at home a child placed in his or her home through the~~  
983 ~~child welfare system.~~

984 ~~(c) Transitions.—~~

985 ~~1. Once a caregiver accepts the responsibility of caring~~  
986 ~~for a child, the child will be removed from the home of that~~  
987 ~~caregiver only if:~~

988 ~~a. The caregiver is clearly unable to safely or legally~~  
989 ~~care for the child;~~

990 ~~b. The child and his or her biological family are~~  
991 ~~reunified;~~

992 ~~c. The child is being placed in a legally permanent home~~  
993 ~~pursuant to the case plan or a court order; or~~

994 ~~d. The removal is demonstrably in the child's best~~  
995 ~~interest.~~

996 ~~2. In the absence of an emergency, if a child leaves the~~



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997 ~~caregiver's home for a reason provided under subparagraph 1.,~~  
998 ~~the transition must be accomplished according to a plan that~~  
999 ~~involves cooperation and sharing of information among all~~  
1000 ~~persons involved, respects the child's developmental stage and~~  
1001 ~~psychological needs, ensures the child has all of his or her~~  
1002 ~~belongings, allows for a gradual transition from the caregiver's~~  
1003 ~~home and, if possible, for continued contact with the caregiver~~  
1004 ~~after the child leaves.~~

1005 ~~(d) Information sharing. Whenever a foster home or~~  
1006 ~~residential group home assumes responsibility for the care of a~~  
1007 ~~child, the department and any additional providers shall make~~  
1008 ~~available to the caregiver as soon as is practicable all~~  
1009 ~~relevant information concerning the child. Records and~~  
1010 ~~information that are required to be shared with caregivers~~  
1011 ~~include, but are not limited to:~~

1012 ~~1. Medical, dental, psychological, psychiatric, and~~  
1013 ~~behavioral history, as well as ongoing evaluation or treatment~~  
1014 ~~needs;~~

1015 ~~2. School records;~~

1016 ~~3. Copies of his or her birth certificate and, if~~  
1017 ~~appropriate, immigration status documents;~~

1018 ~~4. Consents signed by parents;~~

1019 ~~5. Comprehensive behavioral assessments and other social~~  
1020 ~~assessments;~~

1021 ~~6. Court orders;~~

1022 ~~7. Visitation and case plans;~~

1023 ~~8. Guardian ad litem reports;~~

1024 ~~9. Staffing forms; and~~

1025 ~~10. Judicial or citizen review panel reports and~~



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1026 ~~attachments filed with the court, except confidential medical,~~  
1027 ~~psychiatric, and psychological information regarding any party~~  
1028 ~~or participant other than the child.~~

1029 ~~(e) Caregivers employed by residential group homes. All~~  
1030 ~~caregivers in residential group homes shall meet the same~~  
1031 ~~education, training, and background and other screening~~  
1032 ~~requirements as foster parents.~~

1033 (2) ~~(3)~~ REASONABLE AND PRUDENT PARENT STANDARD.—

1034 (a) *Definitions.*—As used in this subsection, the term:

1035 1. "Age-appropriate" means an activity or item that is  
1036 generally accepted as suitable for a child of the same  
1037 chronological age or level of maturity. Age appropriateness is  
1038 based on the development of cognitive, emotional, physical, and  
1039 behavioral capacity which is typical for an age or age group.

1040 2. "Caregiver" means a person with whom the child is placed  
1041 in out-of-home care, or a designated official for a group care  
1042 facility licensed by the department under s. 409.175.

1043 3. "Reasonable and prudent parent" standard means the  
1044 standard of care used by a caregiver in determining whether to  
1045 allow a child in his or her care to participate in  
1046 extracurricular, enrichment, and social activities. This  
1047 standard is characterized by careful and thoughtful parental  
1048 decisionmaking that is intended to maintain a child's health,  
1049 safety, and best interest while encouraging the child's  
1050 emotional and developmental growth.

1051 (b) *Application of standard of care.*—

1052 1. Every child who comes into out-of-home care pursuant to  
1053 this chapter is entitled to participate in age-appropriate  
1054 extracurricular, enrichment, and social activities.



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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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1084 paragraph may not be interpreted as removing or limiting any  
1085 existing liability protection afforded by law.

1086 (3)~~(4)~~ FOSTER CARE ROOM AND BOARD RATES.—

1087 (a) Effective July 1, 2018, room and board rates shall be  
1088 paid to foster parents as follows:

1089  
Monthly Foster Care Rate

1090	0-5 Years	6-12 Years	13-21 Years
	Age	Age	Age
1091	\$457.95	\$469.68	\$549.74

1092  
1093  
1094 (b) Each January, foster parents shall receive an annual  
1095 cost of living increase. The department shall calculate the new  
1096 room and board rate increase equal to the percentage change in  
1097 the Consumer Price Index for All Urban Consumers, U.S. City  
1098 Average, All Items, not seasonally adjusted, or successor  
1099 reports, for the preceding December compared to the prior  
1100 December as initially reported by the United States Department  
1101 of Labor, Bureau of Labor Statistics. The department shall make  
1102 available the adjusted room and board rates annually.

1103 (c) Effective July 1, 2019, foster parents of level I  
1104 family foster homes, as defined in s. 409.175(5) (a) shall  
1105 receive a room and board rate of \$333.

1106 (d) Effective July 1, 2019, the foster care room and board  
1107 rate for level II family foster homes as defined in s.



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1108 409.175(5)(a) shall be the same as the new rate established for  
1109 family foster homes as of January 1, 2019.

1110 (e) Effective January 1, 2020, paragraph (b) shall only  
1111 apply to level II through level V family foster homes, as  
1112 defined in s. 409.175(5)(a).

1113 (f) The amount of the monthly foster care room and board  
1114 rate may be increased upon agreement among the department, the  
1115 community-based care lead agency, and the foster parent.

1116 (g) From July 1, 2018, through June 30, 2019, community-  
1117 based care lead agencies providing care under contract with the  
1118 department shall pay a supplemental room and board payment to  
1119 foster care parents of all family foster homes, on a per-child  
1120 basis, for providing independent life skills and normalcy  
1121 supports to children who are 13 through 17 years of age placed  
1122 in their care. The supplemental payment shall be paid monthly to  
1123 the foster care parents in addition to the current monthly room  
1124 and board rate payment. The supplemental monthly payment shall  
1125 be based on 10 percent of the monthly room and board rate for  
1126 children 13 through 21 years of age as provided under this  
1127 section and adjusted annually. Effective July 1, 2019, such  
1128 supplemental payments shall only be paid to foster parents of  
1129 level II through level V family foster homes.

1130 (4)~~(5)~~ RULEMAKING.—The department shall adopt by rule  
1131 procedures to administer this section.

1132 Section 12. Paragraph (b) of subsection (6) of section  
1133 409.175, Florida Statutes, is amended, and paragraph (1) is  
1134 added to that subsection, to read:

1135 409.175 Licensure of family foster homes, residential  
1136 child-caring agencies, and child-placing agencies; public





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1137 records exemption.-

1138 (6)

1139 (b) Upon application for licensure, the department shall  
1140 conduct a licensing study based on its licensing rules; shall  
1141 inspect the home or the agency and the records, including  
1142 financial records, of the applicant or agency; and shall  
1143 interview the applicant. The department may authorize a licensed  
1144 child-placing agency to conduct the licensing study of a family  
1145 foster home to be used exclusively by that agency and to verify  
1146 to the department that the home meets the licensing requirements  
1147 established by the department. A licensing study of a family  
1148 foster home must be completed by the department or an authorized  
1149 licensed child-placing agency within 30 days of initiation. The  
1150 department shall post on its website a list of the agencies  
1151 authorized to conduct such studies.

1152 1. The complete application file shall be submitted in  
1153 accordance with the traditional or attestation model for  
1154 licensure as prescribed in rule. In addition to other required  
1155 documentation, a traditional licensing application file must  
1156 include a completed licensing study and verification of  
1157 background screening requirements.

1158 2. The department regional licensing authority shall ensure  
1159 that the licensing application file is complete and that all  
1160 licensing requirements are met for the issuance of the license.  
1161 If the child-placing agency is contracted with a community-based  
1162 care lead agency, the licensing application file must contain  
1163 documentation of a review by the community-based care lead  
1164 agency and the regional licensing authority and a recommendation  
1165 for approval or denial by the community-based care lead agency



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1166 ~~Upon certification by a licensed child placing agency that a~~  
1167 ~~family foster home meets the licensing requirements and upon~~  
1168 ~~receipt of a letter from a community based care lead agency in~~  
1169 ~~the service area where the home will be licensed which indicates~~  
1170 ~~that the family foster home meets the criteria established by~~  
1171 ~~the lead agency, the department shall issue the license. A~~  
1172 ~~letter from the lead agency is not required if the lead agency~~  
1173 ~~where the proposed home is located is directly supervising~~  
1174 ~~foster homes in the same service area.~~

1175 3. An application file must be approved or denied within 10  
1176 business days after receipt by the regional licensing authority.  
1177 If the application file is approved, a license must be issued to  
1178 the applicant. The must shall include the name and address of  
1179 the caregiver, the name of the supervising agency, the licensed  
1180 capacity, and the dates for which the license is valid. The  
1181 department regional managing director or designee within upper  
1182 level management shall sign the license. Any limitations must be  
1183 displayed on the license.

1184 4. The regional licensing authority shall provide a copy of  
1185 the license to the community-based care lead agency or  
1186 supervising agency. The community-based care lead agency or  
1187 supervising agency shall ensure that the license is sent to the  
1188 foster parent.

1189 (1) The department shall approve or deny a license within  
1190 10 business days after receipt of a complete family foster home  
1191 application and other required documentation as prescribed in  
1192 rule. The department shall approve or deny a complete  
1193 application no later than 100 calendar days after the  
1194 orientation required by s. 409.175(14). The department may



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1195 exceed 100 calendar days to approve or deny a license if  
1196 additional certifications are required by s. 409.175(5)(a).

1197 Section 13. Paragraph (j) of subsection (1) of section  
1198 409.988, Florida Statutes, is amended to read:

1199 409.988 Lead agency duties; general provisions.-

1200 (1) DUTIES.-A lead agency:

1201 (j) May subcontract for the provision of services required  
1202 by the contract with the lead agency and the department;  
1203 however, the subcontracts must specify how the provider will  
1204 contribute to the lead agency meeting the performance standards  
1205 established pursuant to the child welfare results-oriented  
1206 accountability system required by s. 409.997. The lead agency  
1207 shall directly provide no more than 35 percent of all child  
1208 welfare services provided unless it can demonstrate a need,  
1209 within the lead agency's geographic service area, to exceed this  
1210 threshold. The local community alliance in the geographic  
1211 service area in which the lead agency is seeking to exceed the  
1212 threshold shall review the lead agency's justification for need  
1213 and recommend to the department whether the department should  
1214 approve or deny the lead agency's request for an exemption from  
1215 the services threshold. If there is not a community alliance  
1216 operating in the geographic service area in which the lead  
1217 agency is seeking to exceed the threshold, such review and  
1218 recommendation shall be made by representatives of local  
1219 stakeholders, including at least one representative from each of  
1220 the following:

- 1221 1. The department.  
1222 2. The county government.  
1223 3. The school district.



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1224           4. The county United Way.  
1225           5. The county sheriff's office.  
1226           6. The circuit court corresponding to the county.  
1227           7. The county children's board, if one exists.  
1228           Section 14. Paragraph (b) of subsection (7) of section  
1229 39.302, Florida Statutes, is amended to read:  
1230           39.302 Protective investigations of institutional child  
1231 abuse, abandonment, or neglect.—  
1232           (7) When an investigation of institutional abuse, neglect,  
1233 or abandonment is closed and a person is not identified as a  
1234 caregiver responsible for the abuse, neglect, or abandonment  
1235 alleged in the report, the fact that the person is named in some  
1236 capacity in the report may not be used in any way to adversely  
1237 affect the interests of that person. This prohibition applies to  
1238 any use of the information in employment screening, licensing,  
1239 child placement, adoption, or any other decisions by a private  
1240 adoption agency or a state agency or its contracted providers.  
1241           (b) Likewise, if a person is employed as a caregiver in a  
1242 residential group home licensed pursuant to s. 409.175 and is  
1243 named in any capacity in three or more reports within a 5-year  
1244 period, the department may review all reports for the purposes  
1245 of the employment screening required pursuant to s.  
1246 409.1415(2)(c) ~~s. 409.145(2)(e)~~.  
1247           Section 15. Paragraph (d) of subsection (5) of section  
1248 39.6225, Florida Statutes, is amended to read:  
1249           39.6225 Guardianship Assistance Program.—  
1250           (5) A guardian with an application approved pursuant to  
1251 subsection (2) who is caring for a child placed with the  
1252 guardian by the court pursuant to this part may receive



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1253 guardianship assistance payments based on the following  
1254 criteria:

1255 (d) The department shall provide guardianship assistance  
1256 payments in the amount of \$4,000 annually, paid on a monthly  
1257 basis, or in an amount other than \$4,000 annually as determined  
1258 by the guardian and the department and memorialized in a written  
1259 agreement between the guardian and the department. The agreement  
1260 shall take into consideration the circumstances of the guardian  
1261 and the needs of the child. Changes may not be made without the  
1262 concurrence of the guardian. However, in no case shall the  
1263 amount of the monthly payment exceed the foster care maintenance  
1264 payment that would have been paid during the same period if the  
1265 child had been in licensed care at his or her designated level  
1266 of care at the rate established in s. 409.145(3) ~~s. 409.145(4)~~.

1267 Section 16. Paragraph (b) of subsection (5) of section  
1268 393.065, Florida Statutes, is amended to read:

1269 393.065 Application and eligibility determination.—

1270 (5) The agency shall assign and provide priority to clients  
1271 waiting for waiver services in the following order:

1272 (b) Category 2, which includes individuals on the waiting  
1273 list who are:

1274 1. From the child welfare system with an open case in the  
1275 Department of Children and Families' statewide automated child  
1276 welfare information system and who are either:

1277 a. Transitioning out of the child welfare system at the  
1278 finalization of an adoption, a reunification with family  
1279 members, a permanent placement with a relative, or a  
1280 guardianship with a nonrelative; or

1281 b. At least 18 years but not yet 22 years of age and who



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1282 need both waiver services and extended foster care services; or  
1283         2. At least 18 years but not yet 22 years of age and who  
1284 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the  
1285 extended foster care system.

1286  
1287 For individuals who are at least 18 years but not yet 22 years  
1288 of age and who are eligible under sub-subparagraph 1.b., the  
1289 agency shall provide waiver services, including residential  
1290 habilitation, and the community-based care lead agency shall  
1291 fund room and board at the rate established in s. 409.145(3) ~~s.~~  
1292 ~~409.145(4)~~ and provide case management and related services as  
1293 defined in s. 409.986(3)(e). Individuals may receive both waiver  
1294 services and services under s. 39.6251. Services may not  
1295 duplicate services available through the Medicaid state plan.

1296  
1297 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a  
1298 waiting list of clients placed in the order of the date that the  
1299 client is determined eligible for waiver services.

1300         Section 17. Paragraph (b) of subsection (2) of section  
1301 409.1451, Florida Statutes, is amended to read:

1302         409.1451 The Road-to-Independence Program.—

1303         (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

1304         (b) The amount of the financial assistance shall be as  
1305 follows:

1306         1. For a young adult who does not remain in foster care and  
1307 is attending a postsecondary school as provided in s. 1009.533,  
1308 the amount is \$1,256 monthly.

1309         2. For a young adult who remains in foster care, is  
1310 attending a postsecondary school, as provided in s. 1009.533,



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1311 and continues to reside in a licensed foster home, the amount is  
1312 the established room and board rate for foster parents. This  
1313 takes the place of the payment provided for in s. 409.145(3) ~~s.~~  
1314 ~~409.145(4)~~.

1315 3. For a young adult who remains in foster care, but  
1316 temporarily resides away from a licensed foster home for  
1317 purposes of attending a postsecondary school as provided in s.  
1318 1009.533, the amount is \$1,256 monthly. This takes the place of  
1319 the payment provided for in s. 409.145(3) ~~s. 409.145(4)~~.

1320 4. For a young adult who remains in foster care, is  
1321 attending a postsecondary school as provided in s. 1009.533, and  
1322 continues to reside in a licensed group home, the amount is  
1323 negotiated between the community-based care lead agency and the  
1324 licensed group home provider.

1325 5. For a young adult who remains in foster care, but  
1326 temporarily resides away from a licensed group home for purposes  
1327 of attending a postsecondary school as provided in s. 1009.533,  
1328 the amount is \$1,256 monthly. This takes the place of a  
1329 negotiated room and board rate.

1330 6. A young adult is eligible to receive financial  
1331 assistance during the months when he or she is enrolled in a  
1332 postsecondary educational institution.

1333 Section 18. For the 2020-2021 fiscal year, the sums of  
1334 \$2,198,670 in recurring and \$51,020 in nonrecurring funds from  
1335 the General Revenue Fund are appropriated to the State Court  
1336 System, and 21 full-time equivalent positions with associated  
1337 salary rate of 1,322,144 are authorized for the purposes of  
1338 implementing this act.

1339 Section 19. This act shall take effect July 1, 2020.



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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to 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.; authorizing circuit courts to create early childhood court programs; specifying that early childhood court programs may have certain components; requiring the Office of State Courts Administrator to contract for an evaluation; requiring the Office of the State Courts Administrator to provide or contract for specified duties; 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;





1369 requiring the court to consider specified factors when  
1370 determining whether the child should be placed in out-  
1371 of-home care; requiring the court to evaluate and  
1372 change a child's permanency goal under certain  
1373 circumstances; amending s. 39.6011, F.S.; revising and  
1374 providing requirements for case plan descriptions;  
1375 amending s. 39.701, F.S.; requiring the court to  
1376 retain jurisdiction over a child under certain  
1377 circumstances; requiring specified parties to disclose  
1378 certain information to the court; providing for  
1379 certain caregiver recommendations to the court;  
1380 requiring the court and citizen review panel to  
1381 determine whether certain parties have developed a  
1382 productive relationship; amending s. 63.092, F.S.;  
1383 providing a deadline for completion of a preliminary  
1384 home study; creating s. 63.093, F.S.; providing  
1385 requirements and processes for the adoption of  
1386 children from the child welfare system; creating s.  
1387 409.1415, F.S.; providing legislative findings and  
1388 intent; requiring the department and community-based  
1389 care lead agencies to develop and support  
1390 relationships between certain foster families and  
1391 legal parents of children; providing responsibilities  
1392 for foster parents, birth parents, the department,  
1393 community-based care lead agency staff, and other  
1394 agency staff; defining the term "excellent parenting";  
1395 requiring employees of residential group homes to meet  
1396 specified requirements; requiring the department to  
1397 adopt rules; amending s. 409.145, F.S.; conforming



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1398 provisions to changes made by the act; amending s.  
1399 409.175, F.S.; revising requirements for the licensure  
1400 of family foster homes; requiring the department to  
1401 issue determinations for family foster home licenses  
1402 within a specified timeframe; providing an exception;  
1403 amending s. 409.988, F.S.; authorizing a lead agency  
1404 to provide more than 35 percent of all child welfare  
1405 services under certain conditions; requiring a  
1406 specified local community alliance, or specified  
1407 representatives in certain circumstances, to review  
1408 and recommend approval or denial of the lead agency's  
1409 request for a specified exemption; amending ss.  
1410 39.302, 39.6225, 393.065, and 409.1451, F.S.;  
1411 conforming cross-references; providing an  
1412 appropriation; providing an effective date.

By the Committee on Children, Families, and Elder Affairs; and  
Senator Simpson

586-02285A-20

20201324c1

1 A bill to be entitled  
2 An act relating to child welfare; amending s. 25.385,  
3 F.S.; requiring the Florida Court Educational Council  
4 to establish certain standards for instruction of  
5 circuit and county court judges for dependency cases;  
6 requiring the council to provide such instruction on a  
7 periodic and timely basis; creating s. 39.01304, F.S.;  
8 providing legislative intent; providing a purpose;  
9 authorizing circuit courts to create early childhood  
10 court programs; requiring that early childhood court  
11 programs have certain components; defining the term  
12 "therapeutic jurisprudence"; providing requirements  
13 and guidelines for the Office of the State Courts  
14 Administrator when hiring community coordinators and a  
15 statewide training specialist; requiring the  
16 Department of Children and Families to contract with  
17 certain university-based centers; requiring the  
18 university-based centers to hire a clinical director;  
19 amending s. 39.0138, F.S.; requiring the department to  
20 complete background screenings within a specified  
21 timeframe; providing an exception; amending s. 39.301,  
22 F.S.; requiring the department to notify the court of  
23 certain reports; authorizing the department to file  
24 specified petitions under certain circumstances;  
25 amending s. 39.522, F.S.; requiring the court to  
26 consider specified factors when making a certain  
27 determination; authorizing the court or any party to  
28 the case to file a petition to place a child in out-  
29 of-home care under certain circumstances; requiring

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

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30 the court to consider specified factors when  
31 determining whether the child should be placed in out-  
32 of-home care; requiring the court to evaluate and  
33 change a child's permanency goal under certain  
34 circumstances; amending s. 39.6011, F.S.; revising and  
35 providing requirements for case plan descriptions;  
36 amending s. 39.701, F.S.; requiring the court to  
37 retain jurisdiction over a child under certain  
38 circumstances; requiring specified parties to disclose  
39 certain information to the court; providing for  
40 certain caregiver recommendations to the court;  
41 requiring the court and citizen review panel to  
42 determine whether certain parties have developed a  
43 productive relationship; amending s. 63.092, F.S.;  
44 providing a deadline for completion of a preliminary  
45 home study; creating s. 63.093, F.S.; providing  
46 requirements and processes for the adoption of  
47 children from the child welfare system; creating s.  
48 409.1415, F.S.; providing legislative findings and  
49 intent; requiring the department and community-based  
50 care lead agencies to develop and support  
51 relationships between certain foster families and  
52 legal parents of children; providing responsibilities  
53 for foster parents, birth parents, the department,  
54 community-based care lead agency staff, and other  
55 agency staff; defining the term "excellent parenting";  
56 requiring caregivers employed by residential group  
57 homes to meet specified requirements; requiring the  
58 department to adopt rules; amending s. 409.145, F.S.;

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

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59 conforming provisions to changes made by the act;  
 60 amending s. 409.175, F.S.; revising requirements for  
 61 the licensure of family foster homes; requiring the  
 62 department to issue determinations for family foster  
 63 home licenses within a specified timeframe; providing  
 64 an exception; amending s. 409.988, F.S.; authorizing a  
 65 lead agency to provide more than 35 percent of all  
 66 child welfare services under certain conditions;  
 67 requiring a specified local community alliance, or  
 68 specified representatives in certain circumstances, to  
 69 review and recommend approval or denial of the lead  
 70 agency's request for a specified exemption; amending  
 71 ss. 39.302, 39.6225, 393.065, and 409.1451, F.S.;  
 72 conforming cross-references; providing an effective  
 73 date.

74  
 75 Be It Enacted by the Legislature of the State of Florida:

76  
 77 Section 1. Section 25.385, Florida Statutes, is amended to  
 78 read:

79 25.385 Standards for instruction of circuit and county  
 80 court judges ~~in handling domestic violence cases.-~~

81 (1) The Florida Court Educational Council shall establish  
 82 standards for instruction of circuit and county court judges who  
 83 have responsibility for domestic violence cases, and the council  
 84 shall provide such instruction on a periodic and timely basis.

85 ~~(2) As used in this subsection, section-~~

86 ~~(a)~~ the term "domestic violence" has the meaning set forth  
 87 in s. 741.28.

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88 ~~(b) "Family or household member" has the meaning set forth~~  
 89 ~~in s. 741.28.~~

90 (2) The Florida Court Educational Council shall establish  
 91 standards for instruction of circuit and county court judges who  
 92 have responsibility for dependency cases regarding the benefits  
 93 of a secure attachment with a primary caregiver, the importance  
 94 of a stable placement, and the impact of trauma on child  
 95 development. The council shall provide such instruction to the  
 96 circuit and county court judges handling dependency cases on a  
 97 periodic and timely basis.

98 Section 2. Section 39.01304, Florida Statutes, is created  
 99 to read:

100 39.01304 Early childhood court programs.-

101 (1) It is the intent of the Legislature to encourage the  
 102 department, the Department of Health, the Association of Early  
 103 Learning Coalitions, and other such agencies; local governments;  
 104 interested public or private entities; and individuals to  
 105 support the creation and establishment of early childhood court  
 106 programs. The purpose of an early childhood court program is to  
 107 address the root cause of court involvement through specialized  
 108 dockets, multidisciplinary teams, evidence-based treatment, and  
 109 the use of a nonadversarial approach. Such programs depend on  
 110 the leadership of a judge or magistrate who is educated about  
 111 the science of early childhood development and who requires  
 112 rigorous efforts to heal children physically and emotionally in  
 113 the context of a broad collaboration among professionals from  
 114 different systems working directly in the court as a team,  
 115 recognizing that the parent-child relationship is the foundation  
 116 of child well-being.

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117 (2) A circuit court may create an early childhood court  
 118 program to serve the needs of infants and toddlers in dependency  
 119 court. An early childhood court program must have all of the  
 120 following components:

121 (a) Therapeutic jurisprudence, which must drive every  
 122 aspect of judicial practice. The judge or magistrate must  
 123 support the therapeutic needs of the parent and child in a  
 124 nonadversarial manner. As used in this paragraph, the term  
 125 "therapeutic jurisprudence" means the study of how the law may  
 126 be used as a therapeutic agent and focuses on how laws impact  
 127 emotional and psychological well-being.

128 (b) A procedure for coordinating services and resources for  
 129 families who have a case on the court docket. To meet this  
 130 requirement, the court may create and fill at least one  
 131 community coordinator position pursuant to paragraph (3) (a).

132 (c) A multidisciplinary team made up of key community  
 133 stakeholders who commit to work with the judge or magistrate to  
 134 restructure the way the community responds to the needs of  
 135 maltreated children. The team may include, but is not limited  
 136 to, early intervention specialists; mental health and infant  
 137 mental health professionals; attorneys representing children,  
 138 parents, and the child welfare system; children's advocates;  
 139 early learning coalitions and child care providers; substance  
 140 abuse program providers; primary health care providers; domestic  
 141 violence advocates; and guardians ad litem. The  
 142 multidisciplinary team must address the need for children in an  
 143 early childhood court program to receive medical care in a  
 144 medical home, a screening for developmental delays conducted by  
 145 the local agency responsible for complying with part C of the

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146 federal Individuals with Disabilities Education Act, and quality  
 147 child care.

148 (d) A continuum of mental health services which includes a  
 149 focus on the parent-child relationship and is appropriate for  
 150 each child and family served.

151 (3) Contingent upon an annual appropriation by the  
 152 Legislature, and subject to available resources:

153 (a) The Office of the State Courts Administrator shall  
 154 coordinate with each participating circuit court to create and  
 155 fill at least one community coordinator position for the  
 156 circuit's early childhood court program. Each community  
 157 coordinator shall provide direct support to the program by  
 158 coordinating between the multidisciplinary team and the  
 159 judiciary, coordinating the responsibilities of the  
 160 participating agencies and service providers, and managing the  
 161 collection of data for program evaluation and accountability.  
 162 The Office of State Courts Administrator may hire a statewide  
 163 training specialist to provide training to the participating  
 164 court teams.

165 (b) The department shall contract with one or more  
 166 university-based centers that have expertise in infant mental  
 167 health, and such university-based centers shall hire a clinical  
 168 director charged with ensuring the quality, accountability, and  
 169 fidelity of the program's evidence-based treatment, including,  
 170 but not limited to, training and technical assistance related to  
 171 clinical services, clinical consultation and guidance for  
 172 difficult cases, and ongoing clinical training for court teams.

173 Section 3. Subsection (1) of section 39.0138, Florida  
 174 Statutes, is amended to read

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175 39.0138 Criminal history and other records checks; limit on  
176 placement of a child.-

177 (1) The department shall conduct a records check through  
178 the State Automated Child Welfare Information System (SACWIS)  
179 and a local and statewide criminal history records check on all  
180 persons, including parents, being considered by the department  
181 for placement of a child under this chapter, including all  
182 nonrelative placement decisions, and all members of the  
183 household, 12 years of age and older, of the person being  
184 considered. For purposes of this section, a criminal history  
185 records check may include, but is not limited to, submission of  
186 fingerprints to the Department of Law Enforcement for processing  
187 and forwarding to the Federal Bureau of Investigation for state  
188 and national criminal history information, and local criminal  
189 records checks through local law enforcement agencies of all  
190 household members 18 years of age and older and other visitors  
191 to the home. Background screenings must be completed within 14  
192 business days after the department receives the criminal history  
193 results, unless additional information regarding the criminal  
194 history is required to complete processing. An out-of-state  
195 criminal history records check must be initiated for any person  
196 18 years of age or older who resided in another state if that  
197 state allows the release of such records. The department shall  
198 establish by rule standards for evaluating any information  
199 contained in the automated system relating to a person who must  
200 be screened for purposes of making a placement decision.

201 Section 4. Subsection (1) and paragraph (a) of subsection  
202 (9) of section 39.301, Florida Statutes, are amended to read:

203 39.301 Initiation of protective investigations.-

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204 (1) (a) Upon receiving a report of known or suspected child  
205 abuse, abandonment, or neglect, or that a child is in need of  
206 supervision and care and has no parent, legal custodian, or  
207 responsible adult relative immediately known and available to  
208 provide supervision and care, the central abuse hotline shall  
209 determine if the report requires an immediate onsite protective  
210 investigation. For reports requiring an immediate onsite  
211 protective investigation, the central abuse hotline shall  
212 immediately notify the department's designated district staff  
213 responsible for protective investigations to ensure that an  
214 onsite investigation is promptly initiated. For reports not  
215 requiring an immediate onsite protective investigation, the  
216 central abuse hotline shall notify the department's designated  
217 district staff responsible for protective investigations in  
218 sufficient time to allow for an investigation. At the time of  
219 notification, the central abuse hotline shall also provide  
220 information to district staff on any previous report concerning  
221 a subject of the present report or any pertinent information  
222 relative to the present report or any noted earlier reports.

223 (b) The department shall promptly notify the court of any  
224 report to the central abuse hotline that is accepted for a  
225 protective investigation and involves a child over whom the  
226 court has jurisdiction.

227 (9) (a) For each report received from the central abuse  
228 hotline and accepted for investigation, the department or the  
229 sheriff providing child protective investigative services under  
230 s. 39.3065, shall perform the following child protective  
231 investigation activities to determine child safety:

232 1. Conduct a review of all relevant, available information

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233 specific to the child and family and alleged maltreatment;  
 234 family child welfare history; local, state, and federal criminal  
 235 records checks; and requests for law enforcement assistance  
 236 provided by the abuse hotline. Based on a review of available  
 237 information, including the allegations in the current report, a  
 238 determination shall be made as to whether immediate consultation  
 239 should occur with law enforcement, the Child Protection Team, a  
 240 domestic violence shelter or advocate, or a substance abuse or  
 241 mental health professional. Such consultations should include  
 242 discussion as to whether a joint response is necessary and  
 243 feasible. A determination shall be made as to whether the person  
 244 making the report should be contacted before the face-to-face  
 245 interviews with the child and family members.

246 2. Conduct face-to-face interviews with the child; other  
 247 siblings, if any; and the parents, legal custodians, or  
 248 caregivers.

249 3. Assess the child's residence, including a determination  
 250 of the composition of the family and household, including the  
 251 name, address, date of birth, social security number, sex, and  
 252 race of each child named in the report; any siblings or other  
 253 children in the same household or in the care of the same  
 254 adults; the parents, legal custodians, or caregivers; and any  
 255 other adults in the same household.

256 4. Determine whether there is any indication that any child  
 257 in the family or household has been abused, abandoned, or  
 258 neglected; the nature and extent of present or prior injuries,  
 259 abuse, or neglect, and any evidence thereof; and a determination  
 260 as to the person or persons apparently responsible for the  
 261 abuse, abandonment, or neglect, including the name, address,

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262 date of birth, social security number, sex, and race of each  
 263 such person.

264 5. Complete assessment of immediate child safety for each  
 265 child based on available records, interviews, and observations  
 266 with all persons named in subparagraph 2. and appropriate  
 267 collateral contacts, which may include other professionals. The  
 268 department's child protection investigators are hereby  
 269 designated a criminal justice agency for the purpose of  
 270 accessing criminal justice information to be used for enforcing  
 271 this state's laws concerning the crimes of child abuse,  
 272 abandonment, and neglect. This information shall be used solely  
 273 for purposes supporting the detection, apprehension,  
 274 prosecution, pretrial release, posttrial release, or  
 275 rehabilitation of criminal offenders or persons accused of the  
 276 crimes of child abuse, abandonment, or neglect and may not be  
 277 further disseminated or used for any other purpose.

278 6. Document the present and impending dangers to each child  
 279 based on the identification of inadequate protective capacity  
 280 through utilization of a standardized safety assessment  
 281 instrument. If present or impending danger is identified, the  
 282 child protective investigator must implement a safety plan or  
 283 take the child into custody. If present danger is identified and  
 284 the child is not removed, the child protective investigator  
 285 shall create and implement a safety plan before leaving the home  
 286 or the location where there is present danger. If impending  
 287 danger is identified, the child protective investigator shall  
 288 create and implement a safety plan as soon as necessary to  
 289 protect the safety of the child. The child protective  
 290 investigator may modify the safety plan if he or she identifies

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291 additional impending danger.

292 a. If the child protective investigator implements a safety  
 293 plan, the plan must be specific, sufficient, feasible, and  
 294 sustainable in response to the realities of the present or  
 295 impending danger. A safety plan may be an in-home plan or an  
 296 out-of-home plan, or a combination of both. A safety plan may  
 297 include tasks or responsibilities for a parent, caregiver, or  
 298 legal custodian. However, a safety plan may not rely on  
 299 promissory commitments by the parent, caregiver, or legal  
 300 custodian who is currently not able to protect the child or on  
 301 services that are not available or will not result in the safety  
 302 of the child. A safety plan may not be implemented if for any  
 303 reason the parents, guardian, or legal custodian lacks the  
 304 capacity or ability to comply with the plan. If the department  
 305 is not able to develop a plan that is specific, sufficient,  
 306 feasible, and sustainable, the department shall file a shelter  
 307 petition. A child protective investigator shall implement  
 308 separate safety plans for the perpetrator of domestic violence,  
 309 if the investigator, using reasonable efforts, can locate the  
 310 perpetrator to implement a safety plan, and for the parent who  
 311 is a victim of domestic violence as defined in s. 741.28.  
 312 Reasonable efforts to locate a perpetrator include, but are not  
 313 limited to, a diligent search pursuant to the same requirements  
 314 as in s. 39.503. If the perpetrator of domestic violence is not  
 315 the parent, guardian, or legal custodian of any child in the  
 316 home and if the department does not intend to file a shelter  
 317 petition or dependency petition that will assert allegations  
 318 against the perpetrator as a parent of a child in the home, the  
 319 child protective investigator shall seek issuance of an

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320 injunction authorized by s. 39.504 to implement a safety plan  
 321 for the perpetrator and impose any other conditions to protect  
 322 the child. The safety plan for the parent who is a victim of  
 323 domestic violence may not be shared with the perpetrator. If any  
 324 party to a safety plan fails to comply with the safety plan  
 325 resulting in the child being unsafe, the department shall file a  
 326 shelter petition.

327 b. The child protective investigator shall collaborate with  
 328 the community-based care lead agency in the development of the  
 329 safety plan as necessary to ensure that the safety plan is  
 330 specific, sufficient, feasible, and sustainable. The child  
 331 protective investigator shall identify services necessary for  
 332 the successful implementation of the safety plan. The child  
 333 protective investigator and the community-based care lead agency  
 334 shall mobilize service resources to assist all parties in  
 335 complying with the safety plan. The community-based care lead  
 336 agency shall prioritize safety plan services to families who  
 337 have multiple risk factors, including, but not limited to, two  
 338 or more of the following:

- 339 (I) The parent or legal custodian is of young age;  
 340 (II) The parent or legal custodian, or an adult currently  
 341 living in or frequently visiting the home, has a history of  
 342 substance abuse, mental illness, or domestic violence;  
 343 (III) The parent or legal custodian, or an adult currently  
 344 living in or frequently visiting the home, has been previously  
 345 found to have physically or sexually abused a child;  
 346 (IV) The parent or legal custodian or an adult currently  
 347 living in or frequently visiting the home has been the subject  
 348 of multiple allegations by reputable reports of abuse or

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349 neglect;

350 (V) The child is physically or developmentally disabled; or

351 (VI) The child is 3 years of age or younger.

352 c. The child protective investigator shall monitor the  
 353 implementation of the plan to ensure the child's safety until  
 354 the case is transferred to the lead agency at which time the  
 355 lead agency shall monitor the implementation.

356 d. The department may file a petition for shelter or  
 357 dependency without a new child protective investigation or the  
 358 concurrence of the child protective investigator if the child is  
 359 unsafe but for the use of a safety plan and the parent or  
 360 caregiver has not sufficiently increased protective capacities  
 361 within 90 days after the transfer of the safety plan to the lead  
 362 agency.

363 Section 5. Subsection (1) of section 39.522, Florida  
 364 Statutes, is amended, and subsection (4) is added to that  
 365 section, to read:

366 39.522 Postdisposition change of custody.—The court may  
 367 change the temporary legal custody or the conditions of  
 368 protective supervision at a postdisposition hearing, without the  
 369 necessity of another adjudicatory hearing.

370 (1)(a) At any time before a child is residing in the  
 371 permanent placement approved at the permanency hearing, a child  
 372 who has been placed in the child's own home under the protective  
 373 supervision of an authorized agent of the department, in the  
 374 home of a relative, in the home of a legal custodian, or in some  
 375 other place may be brought before the court by the department or  
 376 by any other interested person, upon the filing of a motion  
 377 alleging a need for a change in the conditions of protective

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378 supervision or the placement. If the parents or other legal  
 379 custodians deny the need for a change, the court shall hear all  
 380 parties in person or by counsel, or both. Upon the admission of  
 381 a need for a change or after such hearing, the court shall enter  
 382 an order changing the placement, modifying the conditions of  
 383 protective supervision, or continuing the conditions of  
 384 protective supervision as ordered. The standard for changing  
 385 custody of the child shall be the best ~~interests~~ interest of the  
 386 child. When determining whether a change of legal custody or  
 387 placement is in applying this standard, the court shall consider  
 388 the continuity of the child's placement in the same out-of-home  
 389 residence as a factor when determining the best interests of the  
 390 child, the court shall consider:

391 1. The child's age.

392 2. The physical, mental, and emotional health benefits to  
 393 the child by remaining in his or her current placement or moving  
 394 to the proposed placement.

395 3. The stability and longevity of the child's current  
 396 placement.

397 4. The established bonded relationship between the child  
 398 and the current or proposed caregiver.

399 5. The reasonable preference of the child, if the court has  
 400 found that the child is of sufficient intelligence,  
 401 understanding, and experience to express a preference.

402 6. The recommendation of the child's current caregiver.

403 7. The recommendation of the child's guardian ad litem, if  
 404 one has been appointed.

405 8. The child's previous and current relationship with a  
 406 sibling, if the change of legal custody or placement will

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407 separate or reunite siblings.

408 9. The likelihood of the child attaining permanency in the  
 409 current or proposed placement.

410 10. Any other relevant factors.

411 (b) If the child is not placed in foster care, ~~then~~ the new  
 412 placement for the child must meet the home study criteria and  
 413 court approval under ~~pursuant to~~ this chapter.

414 (4) (a) The court or any party to the case may file a  
 415 petition to place a child in out-of-home care after the child  
 416 was placed in the child's own home with an in-home safety plan  
 417 or the child was reunified with a parent or caregiver with an  
 418 in-home safety plan if:

419 1. The child has again been abused, neglected, or abandoned  
 420 by the parent or caregiver, or is suffering from or is in  
 421 imminent danger of illness or injury as a result of abuse,  
 422 neglect, or abandonment that has reoccurred; or

423 2. The parent or caregiver has materially violated a  
 424 condition of placement imposed by the court, including, but not  
 425 limited to, not complying with the in-home safety plan or case  
 426 plan.

427 (b) If a child meets the criteria in paragraph (a) to be  
 428 removed and placed in out-of-home care, the court must consider,  
 429 at a minimum, the following in making its determination to  
 430 remove the child and place the child in out-of-home care:

431 1. The circumstances that caused the child's dependency and  
 432 other subsequently identified issues.

433 2. The length of time the child has been placed in the home  
 434 with an in-home safety plan.

435 3. The parent's or caregiver's current level of protective

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436 capacities.

437 4. The level of increase, if any, in the parent's or  
 438 caregiver's protective capacities since the child's placement in  
 439 the home based on the length of time the child has been placed  
 440 in the home.

441 (c) The court shall evaluate the child's permanency goal  
 442 and change the permanency goal as needed if doing so would be in  
 443 the best interests of the child.

444 Section 6. Subsection (5) of section 39.6011, Florida  
 445 Statutes, is amended to read:

446 39.6011 Case plan development.—

447 (5) The case plan must describe all of the following:

448 (a) The role of the foster parents or caregivers ~~legal~~  
 449 ~~custodians~~ when developing the services that are to be provided  
 450 to the child, foster parents, or caregivers. ~~legal custodians,~~

451 (b) The responsibility of the parents and caregivers to  
 452 work together to successfully implement the case plan, how the  
 453 case manager will assist the parents and caregivers in  
 454 developing a productive relationship that includes meaningful  
 455 communication and mutual support, and the ability of the parents  
 456 or caregivers to notify the court or the case manager if  
 457 ineffective communication takes place that negatively impacts  
 458 the child.

459 ~~(c) (b)~~ The responsibility of the case manager to forward a  
 460 relative's request to receive notification of all proceedings  
 461 and hearings submitted under ~~pursuant to~~ s. 39.301(14) (b) to the  
 462 attorney for the department. ~~+~~

463 ~~(d) (e)~~ The minimum number of face-to-face meetings to be  
 464 held each month between the parents and the department's family

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465 services counselors to review the progress of the plan, to  
 466 eliminate barriers to progress, and to resolve conflicts or  
 467 disagreements between parents and caregivers, service providers,  
 468 or any other professional assisting the parents in the  
 469 completion of the case plan. ~~and~~

470 ~~(e)~~~~(d)~~ The parent's responsibility for financial support of  
 471 the child, including, but not limited to, health insurance and  
 472 child support. The case plan must list the costs associated with  
 473 any services or treatment that the parent and child are expected  
 474 to receive which are the financial responsibility of the parent.  
 475 The determination of child support and other financial support  
 476 shall be made independently of any determination of indigency  
 477 under s. 39.013.

478 Section 7. Paragraph (b) of subsection (1) and paragraphs  
 479 (a) and (c) of subsection (2) of section 39.701, Florida  
 480 Statutes, are amended to read:

481 39.701 Judicial review.—

482 (1) GENERAL PROVISIONS.—

483 (b)1. The court shall retain jurisdiction over a child  
 484 returned to his or her parents for a minimum period of 6 months  
 485 following the reunification, but, at that time, based on a  
 486 report of the social service agency and the guardian ad litem,  
 487 if one has been appointed, and any other relevant factors, the  
 488 court shall make a determination as to whether supervision by  
 489 the department and the court's jurisdiction shall continue or be  
 490 terminated.

491 2. Notwithstanding subparagraph 1., the court must retain  
 492 jurisdiction over a child if the child is placed in the home  
 493 with a parent or caregiver with an in-home safety plan and such

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494 safety plan remains necessary for the child to reside safely in  
 495 the home.

496 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF  
 497 AGE.—

498 (a) *Social study report for judicial review.*—Before every  
 499 judicial review hearing or citizen review panel hearing, the  
 500 social service agency shall make an investigation and social  
 501 study concerning all pertinent details relating to the child and  
 502 shall furnish to the court or citizen review panel a written  
 503 report that includes, but is not limited to:

504 1. A description of the type of placement the child is in  
 505 at the time of the hearing, including the safety of the child  
 506 and the continuing necessity for and appropriateness of the  
 507 placement.

508 2. Documentation of the diligent efforts made by all  
 509 parties to the case plan to comply with each applicable  
 510 provision of the plan.

511 3. The amount of fees assessed and collected during the  
 512 period of time being reported.

513 4. The services provided to the foster family or caregiver  
 514 ~~legal custodian~~ in an effort to address the needs of the child  
 515 as indicated in the case plan.

516 5. A statement that either:

517 a. The parent, though able to do so, did not comply  
 518 substantially with the case plan, and the agency  
 519 recommendations;

520 b. The parent did substantially comply with the case plan;

521 or

522 c. The parent has partially complied with the case plan,

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523 with a summary of additional progress needed and the agency  
524 recommendations.

525 6. A statement from the foster parent or caregiver ~~legal~~  
526 ~~custodian~~ providing any material evidence concerning the well-  
527 being of the child, the impact of any services provided to the  
528 child, the working relationship between the parents and  
529 caregivers, and the return of the child to the parent or  
530 parents.

531 7. A statement concerning the frequency, duration, and  
532 results of the parent-child visitation, if any, and the agency  
533 and caregiver recommendations for an expansion or restriction of  
534 future visitation.

535 8. The number of times a child has been removed from his or  
536 her home and placed elsewhere, the number and types of  
537 placements that have occurred, and the reason for the changes in  
538 placement.

539 9. The number of times a child's educational placement has  
540 been changed, the number and types of educational placements  
541 which have occurred, and the reason for any change in placement.

542 10. If the child has reached 13 years of age but is not yet  
543 18 years of age, a statement from the caregiver on the progress  
544 the child has made in acquiring independent living skills.

545 11. Copies of all medical, psychological, and educational  
546 records that support the terms of the case plan and that have  
547 been produced concerning the parents or any caregiver since the  
548 last judicial review hearing.

549 12. Copies of the child's current health, mental health,  
550 and education records as identified in s. 39.6012.

551 (c) *Review determinations.*—The court and any citizen review

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552 panel shall take into consideration the information contained in  
553 the social services study and investigation and all medical,  
554 psychological, and educational records that support the terms of  
555 the case plan; testimony by the social services agency, the  
556 parent, the foster parent or caregiver ~~legal custodian~~, the  
557 guardian ad litem or surrogate parent for educational  
558 decisionmaking if one has been appointed for the child, and any  
559 other person deemed appropriate; and any relevant and material  
560 evidence submitted to the court, including written and oral  
561 reports to the extent of their probative value. These reports  
562 and evidence may be received by the court in its effort to  
563 determine the action to be taken with regard to the child and  
564 may be relied upon to the extent of their probative value, even  
565 though not competent in an adjudicatory hearing. In its  
566 deliberations, the court and any citizen review panel shall seek  
567 to determine:

568 1. If the parent was advised of the right to receive  
569 assistance from any person or social service agency in the  
570 preparation of the case plan.

571 2. If the parent has been advised of the right to have  
572 counsel present at the judicial review or citizen review  
573 hearings. If not so advised, the court or citizen review panel  
574 shall advise the parent of such right.

575 3. If a guardian ad litem needs to be appointed for the  
576 child in a case in which a guardian ad litem has not previously  
577 been appointed or if there is a need to continue a guardian ad  
578 litem in a case in which a guardian ad litem has been appointed.

579 4. Who holds the rights to make educational decisions for  
580 the child. If appropriate, the court may refer the child to the

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581 district school superintendent for appointment of a surrogate  
582 parent or may itself appoint a surrogate parent under the  
583 Individuals with Disabilities Education Act and s. 39.0016.

584 5. The compliance or lack of compliance of all parties with  
585 applicable items of the case plan, including the parents'  
586 compliance with child support orders.

587 6. The compliance or lack of compliance with a visitation  
588 contract between the parent and the social service agency for  
589 contact with the child, including the frequency, duration, and  
590 results of the parent-child visitation and the reason for any  
591 noncompliance.

592 7. The frequency, kind, and duration of contacts among  
593 siblings who have been separated during placement, as well as  
594 any efforts undertaken to reunite separated siblings if doing so  
595 is in the best interests ~~interest~~ of the child.

596 8. The compliance or lack of compliance of the parent in  
597 meeting specified financial obligations pertaining to the care  
598 of the child, including the reason for failure to comply, if  
599 applicable.

600 9. Whether the child is receiving safe and proper care  
601 according to s. 39.6012, including, but not limited to, the  
602 appropriateness of the child's current placement, including  
603 whether the child is in a setting that is as family-like and as  
604 close to the parent's home as possible, consistent with the  
605 child's best interests and special needs, and including  
606 maintaining stability in the child's educational placement, as  
607 documented by assurances from the community-based care lead  
608 agency provider that:

609 a. The placement of the child takes into account the

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610 appropriateness of the current educational setting and the  
611 proximity to the school in which the child is enrolled at the  
612 time of placement.

613 b. The community-based care lead agency has coordinated  
614 with appropriate local educational agencies to ensure that the  
615 child remains in the school in which the child is enrolled at  
616 the time of placement.

617 10. A projected date likely for the child's return home or  
618 other permanent placement.

619 11. When appropriate, the basis for the unwillingness or  
620 inability of the parent to become a party to a case plan. The  
621 court and the citizen review panel shall determine if the  
622 efforts of the social service agency to secure party  
623 participation in a case plan were sufficient.

624 12. For a child who has reached 13 years of age but is not  
625 yet 18 years of age, the adequacy of the child's preparation for  
626 adulthood and independent living. For a child who is 15 years of  
627 age or older, the court shall determine if appropriate steps are  
628 being taken for the child to obtain a driver license or  
629 learner's driver license.

630 13. If amendments to the case plan are required. Amendments  
631 to the case plan must be made under s. 39.6013.

632 14. If the parents and caregivers have developed a  
633 productive relationship that includes meaningful communication  
634 and mutual support.

635 Section 8. Subsection (3) of section 63.092, Florida  
636 Statutes, is amended to read:

637 63.092 Report to the court of intended placement by an  
638 adoption entity; at-risk placement; preliminary study.-

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639 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the  
 640 intended adoptive home, a preliminary home study must be  
 641 performed by a licensed child-placing agency, a child-caring  
 642 agency registered under s. 409.176, a licensed professional, or  
 643 an agency described in s. 61.20(2), unless the adoptee is an  
 644 adult or the petitioner is a stepparent or a relative. If the  
 645 adoptee is an adult or the petitioner is a stepparent or a  
 646 relative, a preliminary home study may be required by the court  
 647 for good cause shown. The department is required to perform the  
 648 preliminary home study only if there is no licensed child-  
 649 placing agency, child-caring agency registered under s. 409.176,  
 650 licensed professional, or agency described in s. 61.20(2), in  
 651 the county where the prospective adoptive parents reside. The  
 652 preliminary home study must be made to determine the suitability  
 653 of the intended adoptive parents and may be completed prior to  
 654 identification of a prospective adoptive minor. Preliminary home  
 655 studies initiated for identified prospective adoptive minors  
 656 that are in the custody of the department must be completed  
 657 within 30 days of initiation. A favorable preliminary home study  
 658 is valid for 1 year after the date of its completion. Upon its  
 659 completion, a signed copy of the home study must be provided to  
 660 the intended adoptive parents who were the subject of the home  
 661 study. A minor may not be placed in an intended adoptive home  
 662 before a favorable preliminary home study is completed unless  
 663 the adoptive home is also a licensed foster home under s.  
 664 409.175. The preliminary home study must include, at a minimum:  
 665 (a) An interview with the intended adoptive parents;  
 666 (b) Records checks of the department's central abuse  
 667 registry, which the department shall provide to the entity

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668 conducting the preliminary home study, and criminal records  
 669 correspondence checks under s. 39.0138 through the Department of  
 670 Law Enforcement on the intended adoptive parents;  
 671 (c) An assessment of the physical environment of the home;  
 672 (d) A determination of the financial security of the  
 673 intended adoptive parents;  
 674 (e) Documentation of counseling and education of the  
 675 intended adoptive parents on adoptive parenting, as determined  
 676 by the entity conducting the preliminary home study. The  
 677 training specified in s. 409.175(14) shall only be required for  
 678 persons who adopt children from the department;  
 679 (f) Documentation that information on adoption and the  
 680 adoption process has been provided to the intended adoptive  
 681 parents;  
 682 (g) Documentation that information on support services  
 683 available in the community has been provided to the intended  
 684 adoptive parents; and  
 685 (h) A copy of each signed acknowledgment of receipt of  
 686 disclosure required by s. 63.085.  
 687  
 688 If the preliminary home study is favorable, a minor may be  
 689 placed in the home pending entry of the judgment of adoption. A  
 690 minor may not be placed in the home if the preliminary home  
 691 study is unfavorable. If the preliminary home study is  
 692 unfavorable, the adoption entity may, within 20 days after  
 693 receipt of a copy of the written recommendation, petition the  
 694 court to determine the suitability of the intended adoptive  
 695 home. A determination as to suitability under this subsection  
 696 does not act as a presumption of suitability at the final

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697 hearing. In determining the suitability of the intended adoptive  
698 home, the court must consider the totality of the circumstances  
699 in the home. A minor may not be placed in a home in which there  
700 resides any person determined by the court to be a sexual  
701 predator as defined in s. 775.21 or to have been convicted of an  
702 offense listed in s. 63.089(4)(b)2.

703 Section 9. Section 63.093, Florida Statutes, is created to  
704 read:

705 63.093 Adoption of a child from the child welfare system.—  
706 The adoption of a child from Florida's foster care system is a  
707 process that typically includes an orientation session, an in-  
708 depth training program to help prospective parents determine if  
709 adoption is right for the family, a home study, and a background  
710 check. Once the process has been completed, prospective parents  
711 are ready to be matched with a child available for adoption.

712 (1) The prospective adoptive parents' initial inquiry to  
713 the department or to the community-based care lead agency or  
714 subcontractor staff, whether written or verbal, must receive a  
715 written response or a telephone call from the department or  
716 agency or subcontractor staff, as applicable, within 7 business  
717 days after receipt of the inquiry. Prospective adoptive parents  
718 who indicate an interest in adopting children in the custody of  
719 the department must be referred by the department or agency or  
720 subcontractor staff to a department-approved adoptive parent  
721 training program as prescribed in rule.

722 (2) An application to adopt must be made on the "Adoptive  
723 Home Application" published by the department.

724 (3) An adoptive home study that includes observation,  
725 screening, and evaluation of the child and adoptive applicants

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726 must be completed by a staff person with the community-based  
727 care lead agency, the subcontractor agency, or another licensed  
728 child-placing agency prior to the adoptive placement of the  
729 child. The purpose of this evaluation is to select families who  
730 will be able to meet the physical, emotional, social,  
731 educational, and financial needs of a child, while safeguarding  
732 the child from further loss and separation from siblings and  
733 significant adults. The adoptive home study is valid for 12  
734 months from the approval date.

735 (4) In addition to other required documentation, an  
736 adoptive parent application file must include the adoptive home  
737 study and verification that all background screening  
738 requirements have been met.

739 (5) The department-approved adoptive parent training must  
740 be provided to and successfully completed by all prospective  
741 adoptive parents except licensed foster parents and relative and  
742 nonrelative caregivers who previously attended the training  
743 within the last 5 years, as prescribed in rule, or have the  
744 child currently placed in their home for 6 months or longer, and  
745 been determined to understand the challenges and parenting  
746 skills needed to successfully parent the children available for  
747 adoption from foster care.

748 (6) At the conclusion of the preparation and study process,  
749 the counselor and supervisor shall make a decision about the  
750 family's appropriateness to adopt. The decision to approve or  
751 not to approve will be reflected in the final recommendation  
752 included in the home study. If the recommendation is for  
753 approval, the adoptive parent application file must be submitted  
754 to the community-based lead agency or subcontractor agency for

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755 approval, which must be made within 14 business days.  
 756 Section 10. Section 409.1415, Florida Statutes, is created  
 757 to read:  
 758 409.1415 Parenting partnerships for children in out-of-home  
 759 care.—  
 760 (1) LEGISLATIVE FINDINGS AND INTENT.—  
 761 (a) The Legislature finds that reunification is the most  
 762 common outcome for children in out-of-home care and that foster  
 763 parents are one of the most important resources to help children  
 764 reunify with their families.  
 765 (b) The Legislature further finds that the most successful  
 766 foster parents understand that their role goes beyond supporting  
 767 the children in their care to supporting the children’s  
 768 families, as a whole, and that children and their families  
 769 benefit when foster and birth parents are supported by an agency  
 770 culture that encourages a meaningful partnership between them  
 771 and provides quality support.  
 772 (c) Therefore, in keeping with national trends, it is the  
 773 intent of the Legislature to bring birth parents and foster  
 774 parents together in order to build strong relationships that  
 775 lead to more successful reunifications and more stability for  
 776 children being fostered in out-of-home care.  
 777 (2) PARENTING PARTNERSHIPS.—  
 778 (a) General provisions.—In order to ensure that children in  
 779 out-of-home care achieve legal permanency as soon as possible,  
 780 to reduce the likelihood that they will re-enter care or that  
 781 other children in the family are abused or neglected or enter  
 782 out-of-home care, and to ensure that families are fully prepared  
 783 to resume custody of their children, the department and

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784 community-based care lead agencies shall develop and support  
 785 relationships between foster families and the legal parents of  
 786 children in out-of-home care to the extent that it is safe and  
 787 in the child’s best interest, by:  
 788 1. Facilitating telephone communication between the foster  
 789 parent and the birth or legal parent as soon as possible after  
 790 the child is placed in the home.  
 791 2. Facilitating and attending an in-person meeting between  
 792 the foster parent and the birth or legal parent within 2 weeks  
 793 after placement.  
 794 3. Developing and supporting a plan for birth or legal  
 795 parents to participate in medical appointments, educational and  
 796 extracurricular activities, and other events involving the  
 797 child.  
 798 4. Facilitating participation by the foster parent in  
 799 visitation between the birth parent and the child.  
 800 5. Involving the foster parent in planning meetings with  
 801 the birth parent.  
 802 6. Developing and implementing effective transition plans  
 803 for the child’s return home or placement in any other living  
 804 environment.  
 805 7. Supporting continued contact between the foster family  
 806 and the child after the child returns home or moves to another  
 807 permanent living arrangement.  
 808 8. Supporting continued connection with the birth parent  
 809 after adoption.  
 810 (b) Responsibilities.—To ensure that a child in out-of-home  
 811 care receives support for healthy development which gives him or  
 812 her the best possible opportunity for success, foster parents,

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813 birth parents, the department, community-based care lead agency  
 814 staff, and other agency staff, as applicable, shall work  
 815 cooperatively in a respectful partnership by adhering to the  
 816 following requirements:

817 1. All members of the partnership must interact and  
 818 communicate professionally with one another, must share all  
 819 relevant information promptly, and must respect the  
 820 confidentiality of all information related to a child and his or  
 821 her family.

822 2. Caregivers, the family, the department, community-based  
 823 care lead agency staff, and other agency staff must participate  
 824 in developing a case plan for the child and family, and all  
 825 members of the team must work together to implement the plan.  
 826 Caregivers must participate in all team meetings or court  
 827 hearings related to the child's care and future plans. The  
 828 department, community-based care lead agency staff, and other  
 829 agency staff must support and facilitate caregiver participation  
 830 through timely notification of such meetings and hearings and an  
 831 inclusive process, and by providing alternative methods for  
 832 participation for caregivers who cannot be physically present at  
 833 a meeting or hearing.

834 3. Excellent parenting is a reasonable expectation of  
 835 caregivers. Caregivers must provide, and the department,  
 836 community-based care lead agency staff, and other agency staff  
 837 must support, excellent parenting. As used in this subparagraph,  
 838 the term "excellent parenting" means a loving commitment to the  
 839 child and the child's safety and well-being; appropriate  
 840 supervision and positive methods of discipline; encouragement of  
 841 the child's strengths; respect for the child's individuality and

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842 likes and dislikes; providing opportunities for the child to  
 843 develop interests and skills; being aware of the impact of  
 844 trauma on behavior; facilitating equal participation of the  
 845 child in family life; involving the child within his or her  
 846 community; and a commitment to enable the child to lead a normal  
 847 life.

848 4. Children in out-of-home care may be placed only with a  
 849 caregiver who has the ability to care for the child; is willing  
 850 to accept responsibility for providing care; and is willing and  
 851 able to learn about and be respectful of the child's culture,  
 852 religion, and ethnicity, his or her special physical or  
 853 psychological needs, any circumstances unique to the child, and  
 854 family relationships. The department, the community-based care  
 855 lead agency, and other agencies must provide a caregiver with  
 856 all available information necessary to assist the caregiver in  
 857 determining whether he or she is able to appropriately care for  
 858 a particular child.

859 5. A caregiver must have access to and take advantage of  
 860 all training that he or she needs to improve his or her skills  
 861 in parenting a child who has experienced trauma due to neglect,  
 862 abuse, or separation from home; to meet the child's special  
 863 needs; and to work effectively with child welfare agencies, the  
 864 courts, the schools, and other community and governmental  
 865 agencies.

866 6. The department, community-based care lead agency staff,  
 867 and other agency staff must provide caregivers with the services  
 868 and support they need to enable them to provide quality care for  
 869 the child.

870 7. Once a family accepts the responsibility of caring for a

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871 child, the child may be removed from that family only if the  
 872 family is clearly unable to care for him or her safely or  
 873 legally, when the child and his or her biological family are  
 874 reunified, when the child is being placed in a legally permanent  
 875 home in accordance with a case plan or court order, or when the  
 876 removal is demonstrably in the best interests of the child.

877 8. If a child must leave the caregiver's home for one of  
 878 the reasons stated in subparagraph 7., and in the absence of an  
 879 unforeseeable emergency, the transition must be accomplished  
 880 according to a plan that involves cooperation and sharing of  
 881 information among all persons involved, respects the child's  
 882 developmental stage and psychological needs, ensures the child  
 883 has all of his or her belongings, allows for a gradual  
 884 transition from the caregiver's home, and, if possible, allows  
 885 for continued contact with the caregiver after the child leaves.

886 9. When the plan for a child includes reunification,  
 887 caregivers and agency staff must work together to assist the  
 888 biological parents in improving their ability to care for and  
 889 protect their children and to provide continuity for the child.

890 10. A caregiver must respect and support the child's ties  
 891 to his or her biological family, including parents, siblings,  
 892 and extended family members, and must assist the child in  
 893 visitation and other forms of communication. The department,  
 894 community-based care lead agency staff, and other agency staff  
 895 must provide caregivers with the information, guidance,  
 896 training, and support necessary for fulfilling this  
 897 responsibility.

898 11. A caregiver must work in partnership with the  
 899 department, community-based care lead agency staff, and other

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900 agency staff to obtain and maintain records that are important  
 901 to the child's well-being including, but not limited to, child  
 902 resource records, medical records, school records, photographs,  
 903 and records of special events and achievements.

904 12. A caregiver must effectively advocate for a child in  
 905 his or her care with the child welfare system, the court, and  
 906 community agencies, including schools, child care providers,  
 907 health and mental health providers, and employers. The  
 908 department, community-based care lead agency staff, and other  
 909 agency staff must support a caregiver in effectively advocating  
 910 for a child and may not retaliate against the caregiver as a  
 911 result of this advocacy.

912 13. A caregiver must be as fully involved in the child's  
 913 medical, psychological, and dental care as he or she would be  
 914 for his or her biological child. Agency staff must support and  
 915 facilitate such participation. Caregivers, the department,  
 916 community-based care lead agency staff, and other agency staff  
 917 must share information with each other about the child's health  
 918 and well-being.

919 14. A caregiver must support a child's school success,  
 920 including, when possible, maintaining school stability by  
 921 participating in school activities and meetings, including  
 922 individual education plan meetings; assisting with school  
 923 assignments; supporting tutoring programs; meeting with teachers  
 924 and working with an educational surrogate, if one has been  
 925 appointed; and encouraging the child's participation in  
 926 extracurricular activities. Agency staff must facilitate this  
 927 participation and must be kept informed of the child's progress  
 928 and needs.

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929 15. Caseworkers and caseworker supervisors must mediate  
 930 disagreements that occur between foster parents and birth  
 931 parents.

932 (c) Residential group homes.—All caregivers employed by  
 933 residential group homes must meet the same education, training,  
 934 and background and other screening requirements as foster  
 935 parents and must adhere to the requirements in paragraph (b).

936 (3) RULEMAKING.—The department shall adopt by rule  
 937 procedures to administer this section.

938 Section 11. Section 409.145, Florida Statutes, is amended  
 939 to read:

940 409.145 Care of children; ~~quality parenting~~; “reasonable  
 941 and prudent parent” standard.—The child welfare system of the  
 942 department shall operate as a coordinated community-based system  
 943 of care which empowers all caregivers for children in foster  
 944 care to provide quality parenting, including approving or  
 945 disapproving a child’s participation in activities based on the  
 946 caregiver’s assessment using the “reasonable and prudent parent”  
 947 standard.

948 (1) SYSTEM OF CARE.—The department shall develop,  
 949 implement, and administer a coordinated community-based system  
 950 of care for children who are found to be dependent and their  
 951 families. This system of care must be directed toward the  
 952 following goals:

953 (a) Prevention of separation of children from their  
 954 families.

955 (b) Intervention to allow children to remain safely in  
 956 their own homes.

957 (c) Reunification of families who have had children removed

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958 from their care.

959 (d) Safety for children who are separated from their  
 960 families by providing alternative emergency or longer-term  
 961 parenting arrangements.

962 (e) Focus on the well-being of children through emphasis on  
 963 maintaining educational stability and providing timely health  
 964 care.

965 (f) Permanency for children for whom reunification with  
 966 their families is not possible or is not in the best interest of  
 967 the child.

968 (g) The transition to independence and self-sufficiency for  
 969 older children who remain in foster care through adolescence.

970 ~~(2) QUALITY PARENTING. A child in foster care shall be~~  
 971 ~~placed only with a caregiver who has the ability to care for the~~  
 972 ~~child, is willing to accept responsibility for providing care,~~  
 973 ~~and is willing and able to learn about and be respectful of the~~  
 974 ~~child’s culture, religion and ethnicity, special physical or~~  
 975 ~~psychological needs, any circumstances unique to the child, and~~  
 976 ~~family relationships. The department, the community-based care~~  
 977 ~~lead agency, and other agencies shall provide such caregiver~~  
 978 ~~with all available information necessary to assist the caregiver~~  
 979 ~~in determining whether he or she is able to appropriately care~~  
 980 ~~for a particular child.~~

981 ~~(a) Roles and responsibilities of caregivers.—A caregiver~~  
 982 ~~shall+~~

983 ~~1. Participate in developing the case plan for the child~~  
 984 ~~and his or her family and work with others involved in his or~~  
 985 ~~her care to implement this plan. This participation includes the~~  
 986 ~~caregiver’s involvement in all team meetings or court hearings~~

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987 ~~related to the child's care.~~

988 2. Complete all training needed to improve skills in  
 989 parenting a child who has experienced trauma due to neglect,  
 990 abuse, or separation from home, to meet the child's special  
 991 needs, and to work effectively with child welfare agencies, the  
 992 court, the schools, and other community and governmental  
 993 agencies.

994 ~~3. Respect and support the child's ties to members of his~~  
 995 ~~or her biological family and assist the child in maintaining~~  
 996 ~~allowable visitation and other forms of communication.~~

997 ~~4. Effectively advocate for the child in the caregiver's~~  
 998 ~~care with the child welfare system, the court, and community~~  
 999 ~~agencies, including the school, child care, health and mental~~  
 1000 ~~health providers, and employers.~~

1001 ~~5. Participate fully in the child's medical, psychological,~~  
 1002 ~~and dental care as the caregiver would for his or her biological~~  
 1003 ~~child.~~

1004 ~~6. Support the child's educational success by participating~~  
 1005 ~~in activities and meetings associated with the child's school or~~  
 1006 ~~other educational setting, including Individual Education Plan~~  
 1007 ~~meetings and meetings with an educational surrogate if one has~~  
 1008 ~~been appointed, assisting with assignments, supporting tutoring~~  
 1009 ~~programs, and encouraging the child's participation in~~  
 1010 ~~extracurricular activities.~~

1011 ~~a. Maintaining educational stability for a child while in~~  
 1012 ~~out-of-home care by allowing the child to remain in the school~~  
 1013 ~~or educational setting that he or she attended before entry into~~  
 1014 ~~out-of-home care is the first priority, unless not in the best~~  
 1015 ~~interest of the child.~~

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1016 ~~b. If it is not in the best interest of the child to remain~~  
 1017 ~~in his or her school or educational setting upon entry into out-~~  
 1018 ~~of-home care, the caregiver must work with the case manager,~~  
 1019 ~~guardian ad litem, teachers and guidance counselors, and~~  
 1020 ~~educational surrogate if one has been appointed to determine the~~  
 1021 ~~best educational setting for the child. Such setting may include~~  
 1022 ~~a public school that is not the school of origin, a private~~  
 1023 ~~school pursuant to s. 1002.42, a virtual instruction program~~  
 1024 ~~pursuant to s. 1002.45, or a home education program pursuant to~~  
 1025 ~~s. 1002.41.~~

1026 ~~7. Work in partnership with other stakeholders to obtain~~  
 1027 ~~and maintain records that are important to the child's well-~~  
 1028 ~~being, including child resource records, medical records, school~~  
 1029 ~~records, photographs, and records of special events and~~  
 1030 ~~achievements.~~

1031 ~~8. Ensure that the child in the caregiver's care who is~~  
 1032 ~~between 13 and 17 years of age learns and masters independent~~  
 1033 ~~living skills.~~

1034 ~~9. Ensure that the child in the caregiver's care is aware~~  
 1035 ~~of the requirements and benefits of the Road-to-Independence~~  
 1036 ~~Program.~~

1037 ~~10. Work to enable the child in the caregiver's care to~~  
 1038 ~~establish and maintain naturally occurring mentoring~~  
 1039 ~~relationships.~~

1040 ~~(b) Roles and responsibilities of the department, the~~  
 1041 ~~community-based care lead agency, and other agency staff. The~~  
 1042 ~~department, the community-based care lead agency, and other~~  
 1043 ~~agency staff shall:~~

1044 1. Include a caregiver in the development and

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1045 implementation of the case plan for the child and his or her  
 1046 family. The caregiver shall be authorized to participate in all  
 1047 team meetings or court hearings related to the child's care and  
 1048 future plans. The caregiver's participation shall be facilitated  
 1049 through timely notification, an inclusive process, and  
 1050 alternative methods for participation for a caregiver who cannot  
 1051 be physically present.

1052 ~~2. Develop and make available to the caregiver the~~  
 1053 ~~information, services, training, and support that the caregiver~~  
 1054 ~~needs to improve his or her skills in parenting children who~~  
 1055 ~~have experienced trauma due to neglect, abuse, or separation~~  
 1056 ~~from home, to meet these children's special needs, and to~~  
 1057 ~~advocate effectively with child welfare agencies, the courts,~~  
 1058 ~~schools, and other community and governmental agencies.~~

1059 ~~3. Provide the caregiver with all information related to~~  
 1060 ~~services and other benefits that are available to the child.~~

1061 ~~4. Show no prejudice against a caregiver who desires to~~  
 1062 ~~educate at home a child placed in his or her home through the~~  
 1063 ~~child welfare system.~~

1064 ~~(c) Transitions.—~~

1065 ~~1. Once a caregiver accepts the responsibility of caring~~  
 1066 ~~for a child, the child will be removed from the home of that~~  
 1067 ~~caregiver only if:~~

1068 ~~a. The caregiver is clearly unable to safely or legally~~  
 1069 ~~care for the child;~~

1070 ~~b. The child and his or her biological family are~~  
 1071 ~~reunified;~~

1072 ~~c. The child is being placed in a legally permanent home~~  
 1073 ~~pursuant to the case plan or a court order; or~~

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1074 ~~d. The removal is demonstrably in the child's best~~  
 1075 ~~interest.~~

1076 ~~2. In the absence of an emergency, if a child leaves the~~  
 1077 ~~caregiver's home for a reason provided under subparagraph 1.,~~  
 1078 ~~the transition must be accomplished according to a plan that~~  
 1079 ~~involves cooperation and sharing of information among all~~  
 1080 ~~persons involved, respects the child's developmental stage and~~  
 1081 ~~psychological needs, ensures the child has all of his or her~~  
 1082 ~~belongings, allows for a gradual transition from the caregiver's~~  
 1083 ~~home and, if possible, for continued contact with the caregiver~~  
 1084 ~~after the child leaves.~~

1085 ~~(d) Information sharing. Whenever a foster home or~~  
 1086 ~~residential group home assumes responsibility for the care of a~~  
 1087 ~~child, the department and any additional providers shall make~~  
 1088 ~~available to the caregiver as soon as is practicable all~~  
 1089 ~~relevant information concerning the child. Records and~~  
 1090 ~~information that are required to be shared with caregivers~~  
 1091 ~~include, but are not limited to:~~

1092 ~~1. Medical, dental, psychological, psychiatric, and~~  
 1093 ~~behavioral history, as well as ongoing evaluation or treatment~~  
 1094 ~~needs;~~

1095 ~~2. School records;~~

1096 ~~3. Copies of his or her birth certificate and, if~~  
 1097 ~~appropriate, immigration status documents;~~

1098 ~~4. Consents signed by parents;~~

1099 ~~5. Comprehensive behavioral assessments and other social~~  
 1100 ~~assessments;~~

1101 ~~6. Court orders;~~

1102 ~~7. Visitation and case plans;~~

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1103 ~~8. Guardian ad litem reports;~~  
 1104 ~~9. Staffing forms; and~~  
 1105 ~~10. Judicial or citizen review panel reports and~~  
 1106 ~~attachments filed with the court, except confidential medical,~~  
 1107 ~~psychiatric, and psychological information regarding any party~~  
 1108 ~~or participant other than the child.~~

1109 ~~(e) Caregivers employed by residential group homes. All~~  
 1110 ~~caregivers in residential group homes shall meet the same~~  
 1111 ~~education, training, and background and other screening~~  
 1112 ~~requirements as foster parents.~~

1113 (2)(3) REASONABLE AND PRUDENT PARENT STANDARD.-

1114 (a) *Definitions.*-As used in this subsection, the term:

1115 1. "Age-appropriate" means an activity or item that is  
 1116 generally accepted as suitable for a child of the same  
 1117 chronological age or level of maturity. Age appropriateness is  
 1118 based on the development of cognitive, emotional, physical, and  
 1119 behavioral capacity which is typical for an age or age group.

1120 2. "Caregiver" means a person with whom the child is placed  
 1121 in out-of-home care, or a designated official for a group care  
 1122 facility licensed by the department under s. 409.175.

1123 3. "Reasonable and prudent parent" standard means the  
 1124 standard of care used by a caregiver in determining whether to  
 1125 allow a child in his or her care to participate in  
 1126 extracurricular, enrichment, and social activities. This  
 1127 standard is characterized by careful and thoughtful parental  
 1128 decisionmaking that is intended to maintain a child's health,  
 1129 safety, and best interest while encouraging the child's  
 1130 emotional and developmental growth.

1131 (b) *Application of standard of care.*-

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1132 1. Every child who comes into out-of-home care pursuant to  
 1133 this chapter is entitled to participate in age-appropriate  
 1134 extracurricular, enrichment, and social activities.

1135 2. Each caregiver shall use the reasonable and prudent  
 1136 parent standard in determining whether to give permission for a  
 1137 child living in out-of-home care to participate in  
 1138 extracurricular, enrichment, or social activities. When using  
 1139 the reasonable and prudent parent standard, the caregiver must  
 1140 consider:

1141 a. The child's age, maturity, and developmental level to  
 1142 maintain the overall health and safety of the child.

1143 b. The potential risk factors and the appropriateness of  
 1144 the extracurricular, enrichment, or social activity.

1145 c. The best interest of the child, based on information  
 1146 known by the caregiver.

1147 d. The importance of encouraging the child's emotional and  
 1148 developmental growth.

1149 e. The importance of providing the child with the most  
 1150 family-like living experience possible.

1151 f. The behavioral history of the child and the child's  
 1152 ability to safely participate in the proposed activity.

1153 (c) *Verification of services delivered.*-The department and  
 1154 each community-based care lead agency shall verify that private  
 1155 agencies providing out-of-home care services to dependent  
 1156 children have policies in place which are consistent with this  
 1157 section and that these agencies promote and protect the ability  
 1158 of dependent children to participate in age-appropriate  
 1159 extracurricular, enrichment, and social activities.

1160 (d) *Limitation of liability.*-A caregiver is not liable for

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1161 harm caused to a child who participates in an activity approved  
 1162 by the caregiver, provided that the caregiver has acted in  
 1163 accordance with the reasonable and prudent parent standard. This  
 1164 paragraph may not be interpreted as removing or limiting any  
 1165 existing liability protection afforded by law.

1166 ~~(3)~~(4) FOSTER CARE ROOM AND BOARD RATES.—

1167 (a) Effective July 1, 2018, room and board rates shall be  
 1168 paid to foster parents as follows:  
 1169

Monthly Foster Care Rate		
0-5 Years Age	6-12 Years Age	13-21 Years Age
\$457.95	\$469.68	\$549.74

1170  
 1171  
 1172  
 1173 (b) Each January, foster parents shall receive an annual  
 1174 cost of living increase. The department shall calculate the new  
 1175 room and board rate increase equal to the percentage change in  
 1176 the Consumer Price Index for All Urban Consumers, U.S. City  
 1177 Average, All Items, not seasonally adjusted, or successor  
 1178 reports, for the preceding December compared to the prior  
 1179 December as initially reported by the United States Department  
 1180 of Labor, Bureau of Labor Statistics. The department shall make  
 1181 available the adjusted room and board rates annually.

1182 (c) Effective July 1, 2019, foster parents of level I  
 1183 family foster homes, as defined in s. 409.175(5)(a) shall  
 1184 receive a room and board rate of \$333.

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1185 (d) Effective July 1, 2019, the foster care room and board  
 1186 rate for level II family foster homes as defined in s.  
 1187 409.175(5)(a) shall be the same as the new rate established for  
 1188 family foster homes as of January 1, 2019.

1189 (e) Effective January 1, 2020, paragraph (b) shall only  
 1190 apply to level II through level V family foster homes, as  
 1191 defined in s. 409.175(5)(a).

1192 (f) The amount of the monthly foster care room and board  
 1193 rate may be increased upon agreement among the department, the  
 1194 community-based care lead agency, and the foster parent.

1195 (g) From July 1, 2018, through June 30, 2019, community-  
 1196 based care lead agencies providing care under contract with the  
 1197 department shall pay a supplemental room and board payment to  
 1198 foster care parents of all family foster homes, on a per-child  
 1199 basis, for providing independent life skills and normalcy  
 1200 supports to children who are 13 through 17 years of age placed  
 1201 in their care. The supplemental payment shall be paid monthly to  
 1202 the foster care parents in addition to the current monthly room  
 1203 and board rate payment. The supplemental monthly payment shall  
 1204 be based on 10 percent of the monthly room and board rate for  
 1205 children 13 through 21 years of age as provided under this  
 1206 section and adjusted annually. Effective July 1, 2019, such  
 1207 supplemental payments shall only be paid to foster parents of  
 1208 level II through level V family foster homes.

1209 ~~(4)~~(5) RULEMAKING.—The department shall adopt by rule  
 1210 procedures to administer this section.

1211 Section 12. Paragraph (b) of subsection (6) of section  
 1212 409.175, Florida Statutes, is amended, and paragraph (d) is  
 1213 added to that subsection, to read:

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1214 409.175 Licensure of family foster homes, residential  
1215 child-caring agencies, and child-placing agencies; public  
1216 records exemption.-

1217 (6)

1218 (b) Upon application for licensure, the department shall  
1219 conduct a licensing study based on its licensing rules; shall  
1220 inspect the home or the agency and the records, including  
1221 financial records, of the applicant or agency; and shall  
1222 interview the applicant. The department may authorize a licensed  
1223 child-placing agency to conduct the licensing study of a family  
1224 foster home to be used exclusively by that agency and to verify  
1225 to the department that the home meets the licensing requirements  
1226 established by the department. A licensing study of a family  
1227 foster home must be completed by the department or an authorized  
1228 licensed child-placing agency within 30 days of initiation. The  
1229 department shall post on its website a list of the agencies  
1230 authorized to conduct such studies.

1231 1. The complete application file shall be submitted in  
1232 accordance with the traditional or attestation model for  
1233 licensure as prescribed in rule. In addition to other required  
1234 documentation, a traditional licensing application file must  
1235 include a completed licensing study and verification of  
1236 background screening requirements.

1237 2. The department regional licensing authority shall ensure  
1238 that the licensing application file is complete and that all  
1239 licensing requirements are met for the issuance of the license.  
1240 If the child-placing agency is contracted with a community-based  
1241 care lead agency, the licensing application file must contain  
1242 documentation of a review by the community-based care lead

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1243 agency and the regional licensing authority and a recommendation  
1244 for approval or denial by the community-based care lead agency  
1245 ~~Upon certification by a licensed child-placing agency that a~~  
1246 ~~family foster home meets the licensing requirements and upon~~  
1247 ~~receipt of a letter from a community based care lead agency in~~  
1248 ~~the service area where the home will be licensed which indicates~~  
1249 ~~that the family foster home meets the criteria established by~~  
1250 ~~the lead agency, the department shall issue the license. A~~  
1251 ~~letter from the lead agency is not required if the lead agency~~  
1252 ~~where the proposed home is located is directly supervising~~  
1253 ~~foster homes in the same service area.~~

1254 3. An application file must be approved or denied within 10  
1255 business days after receipt by the regional licensing authority.  
1256 If the application file is approved, a license must be issued to  
1257 the applicant. The must shall include the name and address of  
1258 the caregiver, the name of the supervising agency, the licensed  
1259 capacity, and the dates for which the license is valid. The  
1260 department regional managing director or designee within upper  
1261 level management shall sign the license. Any limitations must be  
1262 displayed on the license.

1263 4. The regional licensing authority shall provide a copy of  
1264 the license to the community-based care lead agency or  
1265 supervising agency. The community-based care lead agency or  
1266 supervising agency shall ensure that the license is sent to the  
1267 foster parent.

1268 (d) The department shall issue a determination regarding an  
1269 application for a family foster home license within 100 days of  
1270 completion of orientation as provided in s. 409.175(14) (b)1.  
1271 Licenses that require additional certifications pursuant to s.

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1272 409.175(5)(a) may be given additional time to issue a  
 1273 determination.  
 1274 Section 13. Paragraph (j) of subsection (1) of section  
 1275 409.988, Florida Statutes, is amended to read:  
 1276 409.988 Lead agency duties; general provisions.—  
 1277 (1) DUTIES.—A lead agency:  
 1278 (j) May subcontract for the provision of services required  
 1279 by the contract with the lead agency and the department;  
 1280 however, the subcontracts must specify how the provider will  
 1281 contribute to the lead agency meeting the performance standards  
 1282 established pursuant to the child welfare results-oriented  
 1283 accountability system required by s. 409.997. The lead agency  
 1284 shall directly provide no more than 35 percent of all child  
 1285 welfare services provided unless it can demonstrate a need,  
 1286 within the lead agency's geographic service area, to exceed this  
 1287 threshold. The local community alliance in the geographic  
 1288 service area in which the lead agency is seeking to exceed the  
 1289 threshold shall review the lead agency's justification for need  
 1290 and recommend to the department whether the department should  
 1291 approve or deny the lead agency's request for an exemption from  
 1292 the services threshold. If there is not a community alliance  
 1293 operating in the geographic service area in which the lead  
 1294 agency is seeking to exceed the threshold, such review and  
 1295 recommendation shall be made by representatives of local  
 1296 stakeholders, including at least one representative from each of  
 1297 the following:  
 1298 1. The department.  
 1299 2. The county government.  
 1300 3. The school district.

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1301 4. The county United Way.  
 1302 5. The county sheriff's office.  
 1303 6. The circuit court corresponding to the county.  
 1304 7. The county children's board, if one exists.  
 1305 Section 14. Paragraph (b) of subsection (7) of section  
 1306 39.302, Florida Statutes, is amended to read:  
 1307 39.302 Protective investigations of institutional child  
 1308 abuse, abandonment, or neglect.—  
 1309 (7) When an investigation of institutional abuse, neglect,  
 1310 or abandonment is closed and a person is not identified as a  
 1311 caregiver responsible for the abuse, neglect, or abandonment  
 1312 alleged in the report, the fact that the person is named in some  
 1313 capacity in the report may not be used in any way to adversely  
 1314 affect the interests of that person. This prohibition applies to  
 1315 any use of the information in employment screening, licensing,  
 1316 child placement, adoption, or any other decisions by a private  
 1317 adoption agency or a state agency or its contracted providers.  
 1318 (b) Likewise, if a person is employed as a caregiver in a  
 1319 residential group home licensed pursuant to s. 409.175 and is  
 1320 named in any capacity in three or more reports within a 5-year  
 1321 period, the department may review all reports for the purposes  
 1322 of the employment screening required pursuant to s.  
 1323 409.1415(2)(c) ~~s. 409.145(2)(e).~~  
 1324 Section 15. Paragraph (d) of subsection (5) of section  
 1325 39.6225, Florida Statutes, is amended to read:  
 1326 39.6225 Guardianship Assistance Program.—  
 1327 (5) A guardian with an application approved pursuant to  
 1328 subsection (2) who is caring for a child placed with the  
 1329 guardian by the court pursuant to this part may receive

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1330 guardianship assistance payments based on the following  
1331 criteria:

1332 (d) The department shall provide guardianship assistance  
1333 payments in the amount of \$4,000 annually, paid on a monthly  
1334 basis, or in an amount other than \$4,000 annually as determined  
1335 by the guardian and the department and memorialized in a written  
1336 agreement between the guardian and the department. The agreement  
1337 shall take into consideration the circumstances of the guardian  
1338 and the needs of the child. Changes may not be made without the  
1339 concurrence of the guardian. However, in no case shall the  
1340 amount of the monthly payment exceed the foster care maintenance  
1341 payment that would have been paid during the same period if the  
1342 child had been in licensed care at his or her designated level  
1343 of care at the rate established in s. 409.145(3) ~~s. 409.145(4)~~.

1344 Section 16. Paragraph (b) of subsection (5) of section  
1345 393.065, Florida Statutes, is amended to read:

1346 393.065 Application and eligibility determination.—

1347 (5) The agency shall assign and provide priority to clients  
1348 waiting for waiver services in the following order:

1349 (b) Category 2, which includes individuals on the waiting  
1350 list who are:

1351 1. From the child welfare system with an open case in the  
1352 Department of Children and Families' statewide automated child  
1353 welfare information system and who are either:

1354 a. Transitioning out of the child welfare system at the  
1355 finalization of an adoption, a reunification with family  
1356 members, a permanent placement with a relative, or a  
1357 guardianship with a nonrelative; or

1358 b. At least 18 years but not yet 22 years of age and who

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1359 need both waiver services and extended foster care services; or  
1360 2. At least 18 years but not yet 22 years of age and who  
1361 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the  
1362 extended foster care system.

1363  
1364 For individuals who are at least 18 years but not yet 22 years  
1365 of age and who are eligible under sub-subparagraph 1.b., the  
1366 agency shall provide waiver services, including residential  
1367 habilitation, and the community-based care lead agency shall  
1368 fund room and board at the rate established in s. 409.145(3) ~~s.~~  
1369 ~~409.145(4)~~ and provide case management and related services as  
1370 defined in s. 409.986(3)(e). Individuals may receive both waiver  
1371 services and services under s. 39.6251. Services may not  
1372 duplicate services available through the Medicaid state plan.

1373  
1374 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a  
1375 waiting list of clients placed in the order of the date that the  
1376 client is determined eligible for waiver services.

1377 Section 17. Paragraph (b) of subsection (2) of section  
1378 409.1451, Florida Statutes, is amended to read:

1379 409.1451 The Road-to-Independence Program.—

1380 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

1381 (b) The amount of the financial assistance shall be as  
1382 follows:

1383 1. For a young adult who does not remain in foster care and  
1384 is attending a postsecondary school as provided in s. 1009.533,  
1385 the amount is \$1,256 monthly.

1386 2. For a young adult who remains in foster care, is  
1387 attending a postsecondary school, as provided in s. 1009.533,

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1388 and continues to reside in a licensed foster home, the amount is  
1389 the established room and board rate for foster parents. This  
1390 takes the place of the payment provided for in s. 409.145(3) ~~s.~~  
1391 ~~409.145(4)~~.

1392 3. For a young adult who remains in foster care, but  
1393 temporarily resides away from a licensed foster home for  
1394 purposes of attending a postsecondary school as provided in s.  
1395 1009.533, the amount is \$1,256 monthly. This takes the place of  
1396 the payment provided for in s. 409.145(3) ~~s. 409.145(4)~~.

1397 4. For a young adult who remains in foster care, is  
1398 attending a postsecondary school as provided in s. 1009.533, and  
1399 continues to reside in a licensed group home, the amount is  
1400 negotiated between the community-based care lead agency and the  
1401 licensed group home provider.

1402 5. For a young adult who remains in foster care, but  
1403 temporarily resides away from a licensed group home for purposes  
1404 of attending a postsecondary school as provided in s. 1009.533,  
1405 the amount is \$1,256 monthly. This takes the place of a  
1406 negotiated room and board rate.

1407 6. A young adult is eligible to receive financial  
1408 assistance during the months when he or she is enrolled in a  
1409 postsecondary educational institution.

1410 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

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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.

A handwritten signature in black ink, appearing to read "Wilton Simpson", written over a horizontal line.

Senator Wilton Simpson  
Florida Senate, District 10

**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

*City*

FL

*State*

32399

*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.***

**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

Phone 850-922-5081

*Street*

Tallahassee

FL

32399

Email KielL@flcourts.org

*City*

*State*

*Zip*

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)

2/20/20

Meeting Date

1324

Bill Number (if applicable)

Topic ~~Child~~ Child Welfare

Amendment Barcode (if applicable)

Name Ashlee Tising

Job Title Public Policy Consultant

Address 106 East College Avenue, Ste 200

Phone 850-425-1671

Street

Tallahassee, FL 32301

City

State

Zip

Email Ashlee.Tising@skerman.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.

**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.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3.	<u>Sneed</u>	<u>Kynoch</u>	<u>AP</u>	<b>Fav/CS</b>

**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.<sup>1</sup> Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.<sup>2</sup>

### 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;

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<sup>1</sup> OPPAGA, report 06-50

<sup>2</sup> *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.<sup>3</sup>

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.<sup>4</sup>

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.<sup>5</sup>

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.<sup>6</sup>

### **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<sup>7</sup> 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."<sup>8</sup> 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

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<sup>3</sup> Section 20.19(5)(b), F.S.

<sup>4</sup> Section 20.19(5)(d), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> Department of Children and Families, *Community Alliances Resource Handbook*, (December 2000).

<sup>7</sup> 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.

<sup>8</sup> 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.<sup>9</sup>

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 6<sup>th</sup> 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.<sup>10</sup> 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.<sup>11</sup>

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<sup>9</sup> 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.

<sup>10</sup> The Department of Children and Families website, available at: [https://www.myflfamilies.com/service-programs/community-based-care/docs/lead\\_agency\\_map.pdf](https://www.myflfamilies.com/service-programs/community-based-care/docs/lead_agency_map.pdf) (last visited January 17, 2020).

<sup>11</sup> 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.<sup>12</sup>

### ***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,<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup>

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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<sup>12</sup> 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).

<sup>13</sup> *Supra* note 11.

<sup>14</sup> Section 39.3065, F.S.

<sup>15</sup> Specific Appropriation 315, General Appropriations Act, Chapter 2019-115, Laws of Fla.

metrics and provide data through the central system of record.<sup>16</sup> 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<sup>17</sup>). 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.<sup>18</sup>

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.<sup>19</sup> The CPI scorecard is used to measure the standards of the child protective investigations across the state, considering six measures<sup>20</sup> to ensure investigations are providing successful outcomes for children and families.<sup>21</sup> 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.<sup>22</sup>

### **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.<sup>23</sup> 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.<sup>24</sup> 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.

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<sup>16</sup> *Supra* note 9.

<sup>17</sup> 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](https://www.myflfamilies.com/service-programs/child-welfare/docs/2018LMRs/SO%20Annual%20Peer%20Review%20DCF%20Report%202017_2018.pdf) (last visited January 26, 2020).

<sup>18</sup> *Id.*

<sup>19</sup> 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).

<sup>20</sup> 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.

<sup>21</sup> *Supra* note 19.

<sup>22</sup> *Id.*

<sup>23</sup> 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](https://www.nctsn.org/sites/default/files/resources/fact-sheet/secondary_traumatic_stress_child_serving_professionals.pdf) (last visited January 24, 2020).

<sup>24</sup> *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.<sup>25</sup> 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.<sup>26</sup>

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.<sup>27</sup> The Attorney General provides children's legal services in Hillsborough and Broward Counties.<sup>28</sup> Currently, the DCF provides minimal qualitative oversight of contracted attorneys that deliver children's legal services.<sup>29</sup>

### **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.

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<sup>25</sup> Section 409.996, F.S.

<sup>26</sup> 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).

<sup>27</sup> *Id.*

<sup>28</sup> 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](http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/Comprehensive_Review_of_Revenues_Expenditures_...pdf) (last visited January 28, 2020).

<sup>29</sup> *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.<sup>30</sup> 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.<sup>31</sup> 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.<sup>32</sup>

## 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.<sup>33</sup> 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.

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<sup>30</sup> Section 409.991(b), F.S.

<sup>31</sup> Department of Children and Families, SB 1326 Bill Analysis, January 14, 2020. On file with the Senate Committee on Children, Families and Elder Affairs.

<sup>32</sup> *Id.*

<sup>33</sup> 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.<sup>34</sup> In 2017, the FICW expanded its affiliate network to include research affiliates,<sup>35</sup> and there are now over 50 research faculty affiliates.<sup>36</sup>

### 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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<sup>34</sup> 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](https://issuu.com/fsuchildwelfare/docs/annual_report_2018-2019_final) (last visited March 2, 2020).

<sup>35</sup> *Id.*

<sup>36</sup> 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.<sup>37</sup>

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.

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<sup>37</sup> 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<sup>38</sup> 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.

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<sup>38</sup> 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.



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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.—



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11 (b) The duties of the community alliance include, but are  
12 not limited to:

13 1. Joint planning for resource utilization in the  
14 community, including resources appropriated to the department  
15 and any funds that local funding sources choose to provide.

16 2. Needs assessment and establishment of community  
17 priorities for service delivery.

18 3. Determining community outcome goals to supplement state-  
19 required outcomes.

20 4. Serving as a catalyst for community resource  
21 development, including, but not limited to, identifying existing  
22 programs and services delivered by and assistance available from  
23 community-based organizations and faith-based organizations, and  
24 encouraging the development and availability of such programs,  
25 services, and assistance by such organizations. The community  
26 alliance shall ensure that the community-based care lead agency  
27 is aware of such programs, services, and assistance and work to  
28 facilitate the lead agency's appropriate use of these resources.

29 5. Providing for community education and advocacy on issues  
30 related to delivery of services.

31 6. Promoting prevention and early intervention services.

32 (d) The ~~initial~~ membership of the community alliance in a  
33 county, at a minimum, must shall be composed of the following:

34 1. A representative from the department.

35 2. A representative from county government.

36 3. A representative from the school district.

37 4. A representative from the county United Way.

38 5. A representative from the county sheriff's office.

39 6. A representative from the circuit court corresponding to





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40 the county.

41 7. A representative from the county children's board, if  
42 one exists.

43 8. A representative of a faith-based organization involved  
44 in efforts to prevent child maltreatment, strengthen families,  
45 or promote adoption.

46 ~~(e) At any time after the initial meeting of the community~~  
47 ~~alliance,~~ The community alliance shall adopt bylaws and may  
48 increase the membership of the alliance to include the state  
49 attorney for the judicial circuit in which the community  
50 alliance is located, or his or her designee, the public defender  
51 for the judicial circuit in which the community alliance is  
52 located, or his or her designee, and other individuals and  
53 organizations who represent funding organizations, are community  
54 leaders, have knowledge of community-based service issues, or  
55 otherwise represent perspectives that will enable them to  
56 accomplish the duties listed in paragraph (b), if, in the  
57 judgment of the alliance, such change is necessary to adequately  
58 represent the diversity of the population within the community  
59 alliance service circuits.

60 (7) OFFICE OF QUALITY.—The department shall establish an  
61 enterprise wide Office of Quality to ensure that the department  
62 and contracted service providers meet the highest levels of  
63 performance standards.

64 (a) Duties of the office include, but are not limited to,  
65 all of the following:

66 1. Identifying performance standards and metrics for  
67 department programs and all other service providers, including,  
68 but not limited to, behavioral health managing entities,



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69 community-based care lead agencies, and attorney services.

70 2. Conducting ongoing quality assurance reviews of  
71 department programs and contracted service providers on at least  
72 a quarterly basis using cases randomly selected by the  
73 department.

74 3. Strengthening the department's data and analytic  
75 capabilities to identify systemic strengths and deficiencies.

76 4. In consultation with the department's program offices,  
77 recommending unique and varied initiatives to correct  
78 programmatic and systemic deficiencies.

79 5. Collaborating and engaging partners of the department to  
80 improve service quality, efficiency, and effectiveness.

81 6. Reporting any persistent failure by the department or  
82 contracted providers to meet performance standards and  
83 recommending corrective actions to the secretary.

84 7. By each December 1, developing and submitting an annual  
85 report to the Governor, the President of the Senate, and the  
86 Speaker of the House of Representatives for the preceding fiscal  
87 year which encompasses all legislatively mandated statewide  
88 reports required to be issued by the department.

89 (b) The department may adopt rules to administer this  
90 subsection.

91 Section 2. Section 409.991, Florida Statutes, is amended to  
92 read:

93 (Substantial rewording of section. See s. 409.991,  
94 F.S., for present text.)

95 409.991 Allocation of funds for community-based care lead  
96 agencies.—

97 (1) As used in this section, the term "core services funds"



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98 means all funds allocated to lead agencies operating under  
99 contract with the department pursuant to s. 409.987, with the  
100 following exceptions:

101 (a) Funds appropriated for independent living services;  
102 (b) Funds appropriated for maintenance adoption subsidies;  
103 (c) Funds allocated by the department for child protective  
104 investigative service training;

105 (d) Nonrecurring funds;  
106 (e) Designated mental health wrap-around service funds;  
107 (f) Funds for special projects for a designated lead  
108 agency; and

109 (g) Funds appropriated for the Guardianship Assistance  
110 Program established under s. 39.6225.

111 (2) The department shall use an objective, workload-based  
112 methodology to identify and report the optimal level of funding  
113 for each lead agency considering demand for each of the  
114 following:

115 (a) Prevention services;  
116 (b) Client services;  
117 (c) Licensed out-of-home care costs; and  
118 (d) Staffing, using the ratio for case managers compared to  
119 the caseload requirements specified in s. 20.19(4)(c)2.

120 (3) The allocation of core services funds must be based on  
121 the following:

122 (a) The total optimal funding amount as determined by  
123 adding together the funding for prevention services, client  
124 services, licensed out-of-home care, and staffing.

125 (b) A comparison of the total optimal funding amount to the  
126 actual allocated funding for the most recent fiscal year to



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127 determine the percentage of optimal funding the lead agency is  
128 currently receiving.

129 (4) By November 1 of each year, the secretary must submit a  
130 report to the Governor, the President of the Senate, and the  
131 Speaker of the House of Representatives which includes the  
132 current funding level of each lead agency based on the optimal  
133 funding level as determined by using each lead agency workload  
134 using the department's methodology. The report must identify any  
135 lead agency that is persistently funded at less than the optimal  
136 funding level and recommend strategies to address the shortfall  
137 including, but not limited to, business process redesign, the  
138 adoption of best practices, and requesting additional funding.

139 (5) The department may adopt rules to establish the optimal  
140 funding levels for lead agencies.

141 (6) Unless otherwise specified in the General  
142 Appropriations Act, the department shall allocate any new  
143 funding for core services, based on the department's  
144 methodology, to achieve optimal funding for all lead agencies  
145 inversely proportional to each lead agency optimal funding  
146 percentage.

147 (7) Unless otherwise specified in the General  
148 Appropriations Act, the department shall consider a lead  
149 agency's funding level compared to its optimal funding level  
150 when allocating funding from the risk pool, as provided in s.  
151 409.990.

152 Section 3. Subsections (24) and (25) are added to section  
153 409.996, Florida Statutes, to read:

154 409.996 Duties of the Department of Children and Families.-  
155 The department shall contract for the delivery, administration,



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156 or management of care for children in the child protection and  
157 child welfare system. In doing so, the department retains  
158 responsibility for the quality of contracted services and  
159 programs and shall ensure that services are delivered in  
160 accordance with applicable federal and state statutes and  
161 regulations.

162 (24) In collaboration with lead agencies, service  
163 providers, and other community stakeholders, the department  
164 shall develop a statewide accountability system based on  
165 measurable quality standards. The accountability system must be  
166 implemented by July 1, 2021.

167 (a) The accountability system must:

168 1. Assess the overall health of the child welfare system,  
169 by circuit, using grading criteria established by the  
170 department;

171 2. Include a quality measurement system with domains and  
172 clearly defined levels of quality. The system must measure the  
173 performance standards for child protective investigators, lead  
174 agencies, and children's legal services throughout the system of  
175 care, using criteria established by the department, and, at a  
176 minimum, address applicable federal- and state-mandated metrics.

177 3. Align with the principles of the results-oriented  
178 accountability program established under s. 409.997.

179 (b) After the development and implementation of the  
180 accountability system under this subsection, the department and  
181 each lead agency shall use the information from the  
182 accountability system to promote enhanced quality service  
183 delivery within their respective areas of responsibility.

184 (c) By December 1 of each year, the department shall submit



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185 a report on the overall health of the child welfare system to  
186 the Governor, the President of the Senate, and the Speaker of  
187 the House of Representatives.

188 (d) The department may adopt rules to implement this  
189 subsection.

190 (25) Subject to an appropriation, for the 2020-2021 and  
191 2021-2022 fiscal years, the department shall implement a pilot  
192 project in the Sixth and Thirteenth Judicial Circuits,  
193 respectively, aimed at improving child welfare outcomes.

194 (a) In implementing the pilot projects, the department  
195 shall establish performance metrics and performance standards to  
196 assess improvements in safety, permanency, and the well-being of  
197 children in the local system of care for the lead agencies in  
198 those judicial circuits. Such metrics and standards must be  
199 aligned with indicators used in the most recent federal Child  
200 and Family Services Reviews.

201 (b) The lead agencies in the Sixth and Thirteenth Judicial  
202 Circuits shall provide performance data to the department each  
203 quarter. The department shall review the data for accuracy and  
204 completeness and then shall compare the actual performance of  
205 the lead agencies to the established performance metrics and  
206 standards. Each lead agency that exceeds performance metrics and  
207 standards is eligible for incentive funding.

208 (c) For the first quarter of each fiscal year, the  
209 department may advance incentive funding to the lead agencies in  
210 an amount equal to one quarter of the total allocated to the  
211 pilot project. After each quarter, the department shall assess  
212 the performance of the lead agencies for that quarter and adjust  
213 the subsequent quarter's incentive funding based on its actual



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214 prior quarter performance.

215 (d) The department shall include the results of the pilot  
216 projects in the report required under s. 20.19(7). The report  
217 must include the department's findings and recommendations  
218 relating to the pilot projects.

219 (e) This subsection expires July 1, 2022.

220 Section 4. This act shall take effect upon becoming a law.

221

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

223 And the title is amended as follows:

224 Delete everything before the enacting clause

225 and insert:

226

A bill to be entitled

227 An act relating to the Department of Children and  
228 Families; amending s. 20.19, F.S.; revising duties and  
229 membership of community alliances; requiring the  
230 department to establish an Office of Quality;  
231 providing duties of the office; requiring the office  
232 to develop and submit a report to the Governor and the  
233 Legislature annually by a specified date; authorizing  
234 the department to adopt rules; amending s. 409.991,  
235 F.S.; defining the term "core services funds";  
236 requiring the department to develop a methodology to  
237 identify and report the optimal level of funding for  
238 community-based care lead agencies; providing  
239 requirements for the allocation of core services  
240 funds; requiring the Secretary of the Department of  
241 Children and Families to submit a report to the  
242 Governor and Legislature annually by a specified date;



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243 providing requirements for such report; authorizing  
244 the department to adopt rules; requiring certain  
245 funding to be allocated based on the department's  
246 methodology, unless otherwise specified in the General  
247 Appropriations Act; amending s. 409.996, F.S. ;  
248 requiring the department to develop a statewide  
249 accountability system; requiring that such system be  
250 implemented by a specified date; providing  
251 requirements for such accountability system; requiring  
252 the department and lead agencies to promote enhanced  
253 quality service delivery; requiring the department to  
254 submit a report to the Governor and the Legislature  
255 annually by a specified date; authorizing the  
256 department to adopt rules; requiring the department to  
257 implement pilot projects to improve child welfare  
258 outcomes in specified judicial circuits; requiring the  
259 department to establish performance metrics and  
260 standards to implement the pilot projects; requiring  
261 lead agencies in specified judicial circuits to  
262 provide certain data to the department each quarter;  
263 requiring the department to review such data;  
264 authorizing the department to advance incentive  
265 funding to certain lead agencies that meet specified  
266 requirements; requiring the department to include  
267 certain results in a specified report; providing for  
268 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

11 under s. 409.996(25), Florida Statutes, as created by this act.  
12 (2) For the 2020-2021 fiscal year, the sum of \$5,350,000 in  
13 recurring funds from the General Revenue Fund is appropriated to  
14 the Department of Children and Families, and 125 full-time  
15 equivalent positions with associated salary rate of 2,907,885  
16 are authorized for the establishment of the Office of Quality,  
17 as required under s. 20.19(7), Florida Statutes, as created by  
18 this act. The department is authorized to reassign staff and  
19 submit budget amendments pursuant to s. 216.292, Florida  
20 Statutes, to realign up to 125 currently authorized positions to  
21 serve in the Office of Quality.

22  
23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Delete line 268

26 and insert:

27 future expiration; providing appropriations;

28 authorizing positions; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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The Committee on Appropriations (Simpson) recommended the following:

1           **Senate Substitute for Amendment (835096) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Paragraphs (b), (d), and (e) of subsection (5)  
7 of section 20.19, Florida Statutes, are amended, and a new  
8 subsection (7) is added to that section, to read:

9           20.19 Department of Children and Families.—There is created  
10 a Department of Children and Families.



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11 (5) COMMUNITY ALLIANCES.—

12 (b) The duties of the community alliance include, but are  
13 not limited to:

14 1. Joint planning for resource utilization in the  
15 community, including resources appropriated to the department  
16 and any funds that local funding sources choose to provide.

17 2. Needs assessment and establishment of community  
18 priorities for service delivery.

19 3. Determining community outcome goals to supplement state-  
20 required outcomes.

21 4. Serving as a catalyst for community resource  
22 development, including, but not limited to, identifying existing  
23 programs and services delivered by and assistance available from  
24 community-based organizations and faith-based organizations, and  
25 encouraging the development and availability of such programs,  
26 services, and assistance by such organizations. The community  
27 alliance shall ensure that the community-based care lead agency  
28 is aware of such programs, services, and assistance and work to  
29 facilitate the lead agency's appropriate use of these resources.

30 5. Providing for community education and advocacy on issues  
31 related to delivery of services.

32 6. Promoting prevention and early intervention services.

33 (d) The initial membership of the community alliance in a  
34 county, at a minimum, must ~~shall~~ be composed of the following:

35 1. A representative from the department.

36 2. A representative from county government.

37 3. A representative from the school district.

38 4. A representative from the county United Way.

39 5. A representative from the county sheriff's office.



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40           6. A representative from the circuit court corresponding to  
41 the county.

42           7. A representative from the county children's board, if  
43 one exists.

44           8. A representative of a faith-based organization involved  
45 in efforts to prevent child maltreatment, strengthen families,  
46 or promote adoption.

47           (e) At any time after the initial meeting of the community  
48 alliance, The community alliance shall adopt bylaws and may  
49 increase the membership of the alliance to include the state  
50 attorney for the judicial circuit in which the community  
51 alliance is located, or his or her designee, the public defender  
52 for the judicial circuit in which the community alliance is  
53 located, or his or her designee, and other individuals and  
54 organizations who represent funding organizations, are community  
55 leaders, have knowledge of community-based service issues, or  
56 otherwise represent perspectives that will enable them to  
57 accomplish the duties listed in paragraph (b), if, in the  
58 judgment of the alliance, such change is necessary to adequately  
59 represent the diversity of the population within the community  
60 alliance service circuits.

61           (7) OFFICE OF QUALITY.—The department shall establish an  
62 enterprise wide Office of Quality to ensure that the department  
63 and contracted service providers meet the highest levels of  
64 performance standards.

65           (a) Duties of the office include, but are not limited to,  
66 all of the following:

67           1. Identifying performance standards and metrics for  
68 department programs and all other service providers, including,



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69 but not limited to, behavioral health managing entities,  
70 community-based care lead agencies, and attorney services.

71 2. Conducting ongoing quality assurance reviews of  
72 department programs and contracted service providers on at least  
73 a quarterly basis using cases randomly selected by the  
74 department.

75 3. Strengthening the department's data and analytic  
76 capabilities to identify systemic strengths and deficiencies.

77 4. In consultation with the department's program offices,  
78 recommending unique and varied initiatives to correct  
79 programmatic and systemic deficiencies.

80 5. Collaborating and engaging partners of the department to  
81 improve service quality, efficiency, and effectiveness.

82 6. Reporting any persistent failure by the department or  
83 contracted providers to meet performance standards and  
84 recommending corrective actions to the secretary.

85 7. By each December 1, developing and submitting an annual  
86 report to the Governor, the President of the Senate, and the  
87 Speaker of the House of Representatives for the preceding fiscal  
88 year which encompasses all legislatively mandated statewide  
89 reports required to be issued by the department.

90 (b) The department may adopt rules to administer this  
91 subsection.

92 Section 2. Section 402.402, Florida Statutes, is amended to  
93 read:

94 402.402 Child protection and child welfare personnel;  
95 attorneys employed by the department.—

96 (1) CHILD PROTECTIVE INVESTIGATION PROFESSIONAL STAFF  
97 REQUIREMENTS.—The department is responsible for recruitment of



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98 qualified professional staff to serve as child protective  
99 investigators and child protective investigation supervisors.  
100 The department shall make every effort to recruit and hire  
101 persons qualified by their education and experience to perform  
102 social work functions. The department's efforts shall be guided  
103 by the goal that ~~by July 1, 2019,~~ at least half of all child  
104 protective investigators and supervisors will have a bachelor's  
105 degree or a master's degree in social work from a college or  
106 university social work program accredited by the Council on  
107 Social Work Education. The department, in collaboration with the  
108 lead agencies, subcontracted provider organizations, the Florida  
109 Institute for Child Welfare created pursuant to s. 1004.615, and  
110 other partners in the child welfare system, shall develop a  
111 protocol for screening candidates for child protective positions  
112 which reflects the preferences specified in paragraphs (a)-(f).  
113 The following persons shall be given preference in the  
114 recruitment of qualified professional staff, but the preferences  
115 serve only as guidance and do not limit the department's  
116 discretion to select the best available candidates:

117 (a) Individuals with baccalaureate degrees in social work  
118 and child protective investigation supervisors with master's  
119 degrees in social work from a college or university social work  
120 program accredited by the Council on Social Work Education.

121 (b) Individuals with baccalaureate or master's degrees in  
122 psychology, sociology, counseling, special education, education,  
123 human development, child development, family development,  
124 marriage and family therapy, and nursing.

125 (c) Individuals with baccalaureate degrees who have a  
126 combination of directly relevant work and volunteer experience,



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127 preferably in a public service field related to children's  
128 services, demonstrating critical thinking skills, formal  
129 assessment processes, communication skills, problem solving, and  
130 empathy; a commitment to helping children and families; a  
131 capacity to work as part of a team; an interest in continuous  
132 development of skills and knowledge; and personal strength and  
133 resilience to manage competing demands and handle workplace  
134 stresses.

135 (2) SPECIALIZED TRAINING.—All child protective  
136 investigators and child protective investigation supervisors  
137 employed by the department or a sheriff's office must complete  
138 specialized training either focused on serving a specific  
139 population, including, but not limited to, medically fragile  
140 children, sexually exploited children, children under 3 years of  
141 age, or families with a history of domestic violence, mental  
142 illness, or substance abuse, or focused on performing certain  
143 aspects of child protection practice, including, but not limited  
144 to, investigation techniques and analysis of family dynamics.  
145 The specialized training may be used to fulfill continuing  
146 education requirements under s. 402.40(3)(e). Individuals ~~hired~~  
147 ~~before July 1, 2014, shall complete the specialized training by~~  
148 ~~June 30, 2016, and individuals~~ hired on or after July 1, 2014,  
149 shall complete the specialized training within 2 years after  
150 hire. An individual may receive specialized training in multiple  
151 areas.

152 (3) STAFF SUPPORT.—The department shall implement policies  
153 and programs that mitigate and prevent the impact of secondary  
154 traumatic stress and burnout among child protective  
155 investigations staff, including, but not limited to:





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156 (a) Initiatives to encourage and inspire child protective  
157 investigations staff, including recognizing their achievements  
158 on a recognition wall within their unit.

159 (b) Formal procedures for providing support to child  
160 protective investigations staff after a critical incident such  
161 as a child fatality.

162 (c) Initial training upon appointment to a supervisory  
163 position and annual continuing education for all supervisors on  
164 how to prevent secondary traumatic stress and burnout among the  
165 employees they supervise.

166 (d) Monitoring levels of secondary traumatic stress and  
167 burnout among individual employees and intervening as needed.  
168 The department shall closely monitor and respond to levels of  
169 secondary traumatic stress and burnout among employees during  
170 the first 2 years after hire.

171 (e) Ongoing training in self-care for all child protective  
172 investigations staff.

173  
174 Such programs may also include, but are not limited, to formal  
175 peer counseling and support programs.

176 (4)-(3) REPORT.—By each October 1, the department shall  
177 submit a report on the educational qualifications, turnover,  
178 professional advancement, and working conditions of the child  
179 protective investigators and supervisors to the Governor, the  
180 President of the Senate, and the Speaker of the House of  
181 Representatives.

182 (5)-(4) ATTORNEYS EMPLOYED BY OR CONTRACTING WITH THE  
183 DEPARTMENT TO HANDLE CHILD WELFARE CASES.—Attorneys hired or  
184 contracted with on or after July 1, 2014, whose primary



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185 responsibility is representing the department in child welfare  
186 cases shall, within the first 6 months of employment, receive  
187 training in:

188 (a) The dependency court process, including the attorney's  
189 role in preparing and reviewing documents prepared for  
190 dependency court for accuracy and completeness.~~†~~

191 (b) Preparing and presenting child welfare cases, including  
192 at least 1 week shadowing an experienced children's legal  
193 services attorney preparing and presenting cases.~~†~~

194 (c) Safety assessment, safety decisionmaking tools, and  
195 safety plans.~~†~~

196 (d) Developing information presented by investigators and  
197 case managers to support decisionmaking in the best interest of  
198 children.~~† and~~

199 (e) The experiences and techniques of case managers and  
200 investigators, including shadowing an experienced child  
201 protective investigator and an experienced case manager for at  
202 least 8 hours.

203 Section 3. Paragraph (1) is added to subsection (1) of  
204 section 409.988, Florida Statutes, to read:

205 409.988 Lead agency duties; general provisions.—

206 (1) DUTIES.—A lead agency:

207 (1) Shall identify an employee to serve as a liaison with  
208 the community alliance and community-based and faith-based  
209 organizations interested in collaborating with the lead agency  
210 or offering services or other assistance on a volunteer basis to  
211 the children and families served by the lead agency. The lead  
212 agency shall ensure that appropriate lead agency staff and  
213 subcontractors, including, but not limited to, case managers,



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214 are informed of the specific services or assistance available  
215 from community-based and faith-based organizations.

216 Section 4. Section 409.991, Florida Statutes, is amended to  
217 read:

218 (Substantial rewording of section. See s. 409.991,  
219 F.S., for present text.)

220 409.991 Allocation of funds for community-based care lead  
221 agencies.—

222 (1) As used in this section, the term "core services funds"  
223 means all funds allocated to lead agencies operating under  
224 contract with the department pursuant to s. 409.987, with the  
225 following exceptions:

226 (a) Funds appropriated for independent living services;

227 (b) Funds appropriated for maintenance adoption subsidies;

228 (c) Funds allocated by the department for child protective  
229 investigative service training;

230 (d) Nonrecurring funds;

231 (e) Designated mental health wrap-around service funds;

232 (f) Funds for special projects for a designated lead  
233 agency; and

234 (g) Funds appropriated for the Guardianship Assistance  
235 Program established under s. 39.6225.

236 (2) The department shall use an objective, workload-based  
237 methodology to identify and report the optimal level of funding  
238 for each lead agency considering demand for each of the  
239 following:

240 (a) Prevention services;

241 (b) Client services;

242 (c) Licensed out-of-home care costs; and



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243 (d) Staffing, using the ratio for case managers compared to  
244 the caseload requirements specified in s. 20.19(4)(c)2.

245 (3) The allocation of core services funds must be based on  
246 the following:

247 (a) The total optimal funding amount as determined by  
248 adding together the funding for prevention services, client  
249 services, licensed out-of-home care, and staffing.

250 (b) A comparison of the total optimal funding amount to the  
251 actual allocated funding for the most recent fiscal year to  
252 determine the percentage of optimal funding the lead agency is  
253 currently receiving.

254 (4) By November 1 of each year, the secretary must submit a  
255 report to the Governor, the President of the Senate, and the  
256 Speaker of the House of Representatives which includes the  
257 current funding level of each lead agency based on the optimal  
258 funding level as determined by using each lead agency workload  
259 using the department's methodology. The report must identify any  
260 lead agency that is persistently funded at less than the optimal  
261 funding level and recommend strategies to address the shortfall  
262 including, but not limited to, business process redesign, the  
263 adoption of best practices, and requesting additional funding.

264 (5) The department may adopt rules to establish the optimal  
265 funding levels for lead agencies.

266 (6) Unless otherwise specified in the General  
267 Appropriations Act, the department shall allocate any new  
268 funding for core services, based on the department's  
269 methodology, to achieve optimal funding for all lead agencies  
270 inversely proportional to each lead agency optimal funding  
271 percentage.



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272           (7) Unless otherwise specified in the General  
273 Appropriations Act, the department shall consider a lead  
274 agency's funding level compared to its optimal funding level  
275 when allocating funding from the risk pool, as provided in s.  
276 409.990.

277           Section 5. Subsections (18) through (23) of section  
278 409.996, Florida Statutes, are renumbered (19) through (24),  
279 respectively, paragraph (a) of subsection (1) and subsection  
280 (17) of that section are amended, and a new subsection  
281 (18), (24), and (25) are added to that section, to read:

282           409.996 Duties of the Department of Children and Families.-  
283 The department shall contract for the delivery, administration,  
284 or management of care for children in the child protection and  
285 child welfare system. In doing so, the department retains  
286 responsibility for the quality of contracted services and  
287 programs and shall ensure that services are delivered in  
288 accordance with applicable federal and state statutes and  
289 regulations.

290           (1) The department shall enter into contracts with lead  
291 agencies for the performance of the duties by the lead agencies  
292 pursuant to s. 409.988. At a minimum, the contracts must:

293           (a) Provide for the services needed to accomplish the  
294 duties established in s. 409.988 and provide information to the  
295 department which is necessary to meet the requirements for a  
296 quality assurance program pursuant to subsection (19)~~(18)~~ and  
297 the child welfare results-oriented accountability system  
298 pursuant to s. 409.997.

299           (17) The department shall directly ~~or through contract~~  
300 provide attorneys to prepare and present cases in dependency



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301 court and shall ensure that the court is provided with adequate  
302 information for informed decisionmaking in dependency cases,  
303 including, at a minimum, a face sheet for each case which lists  
304 the names and contact information for any child protective  
305 investigator, child protective investigation supervisor, case  
306 manager, and case manager supervisor, and the regional  
307 department official responsible for the lead agency contract.  
308 The department shall provide to the court the case information  
309 and recommendations provided by the lead agency or  
310 subcontractor. ~~For the Sixth Judicial Circuit, the department~~  
311 ~~shall contract with the state attorney for the provision of~~  
312 ~~these services.~~

313 (18) (a) The department may contract for the provision of  
314 children's legal services to prepare and present cases in  
315 dependency court. The contracted attorneys shall ensure that the  
316 court is provided with adequate information for informed  
317 decisionmaking in dependency cases, including, at a minimum, a  
318 face sheet for each case which lists the names and contact  
319 information for any child protective investigator, child  
320 protective investigator supervisor, and the regional department  
321 official responsible for the lead agency contract. The  
322 contracted attorneys shall provide to the court the case  
323 information and recommendations provided by the lead agency or  
324 subcontractor. For the Sixth Judicial Circuit, the department  
325 shall contract with the state attorney for the provision of  
326 these services.

327 (b) The contracted attorneys shall adopt the child welfare  
328 practice model, as periodically updated by the department, that  
329 is used by attorneys employed by the department. The contracted



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330 attorneys shall operate in accordance with the same federal and  
331 state performance standards and metrics imposed on children's  
332 legal services attorneys employed by the department.

333 (c) The department and contracted attorneys providing  
334 children's legal services shall collaborate to monitor program  
335 performance on an ongoing basis. The department and contracted  
336 attorneys', or a representative from such contracted attorneys'  
337 offices, shall meet at least quarterly to collaborate on federal  
338 and state quality assurance and quality improvement initiatives.

339 (d) The department shall conduct an annual program  
340 performance evaluation which shall be based on the same child  
341 welfare practice model principles and federal and state  
342 performance standards that are imposed on children's legal  
343 services attorneys employed by the department. The program  
344 performance evaluation must be standardized statewide and the  
345 department shall select random cases for evaluation. The program  
346 performance evaluation shall be conducted by a team of peer  
347 reviewers from the respective contracted attorneys' offices that  
348 perform children's legal services and representatives from the  
349 department.

350 (e) The department shall publish an annual report  
351 regarding, at a minimum, performance quality, outcome-measure  
352 attainment, and cost efficiency of the services provided by the  
353 contracted attorneys. The annual report must include data and  
354 information on the performance of both the contracted attorneys'  
355 and the department's attorneys. The department shall submit the  
356 annual report to the Governor, the President of the Senate, and  
357 the Speaker of the House of Representatives no later than  
358 November 1 of each year that the contracted attorneys are



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359 receiving appropriations to provide children's legal services  
360 for the department.

361 (24) In collaboration with lead agencies, service  
362 providers, and other community stakeholders, the department  
363 shall develop a statewide accountability system based on  
364 measurable quality standards. The accountability system must be  
365 implemented by July 1, 2021.

366 (a) The accountability system must:

367 1. Assess the overall health of the child welfare system,  
368 by circuit, using grading criteria established by the  
369 department;

370 2. Include a quality measurement system with domains and  
371 clearly defined levels of quality. The system must measure the  
372 performance standards for child protective investigators, lead  
373 agencies, and children's legal services throughout the system of  
374 care, using criteria established by the department, and, at a  
375 minimum, address applicable federal- and state-mandated metrics.

376 3. Align with the principles of the results-oriented  
377 accountability program established under s. 409.997.

378 (b) After the development and implementation of the  
379 accountability system under this subsection, the department and  
380 each lead agency shall use the information from the  
381 accountability system to promote enhanced quality service  
382 delivery within their respective areas of responsibility.

383 (c) By December 1 of each year, the department shall submit  
384 a report on the overall health of the child welfare system to  
385 the Governor, the President of the Senate, and the Speaker of  
386 the House of Representatives.

387 (d) The department may adopt rules to implement this





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388 subsection.

389 (25) Subject to an appropriation, for the 2020-2021 and  
390 2021-2022 fiscal years, the department shall implement a pilot  
391 project in the Sixth and Thirteenth Judicial Circuits,  
392 respectively, aimed at improving child welfare outcomes.

393 (a) In implementing the pilot projects, the department  
394 shall establish performance metrics and performance standards to  
395 assess improvements in safety, permanency, and the well-being of  
396 children in the local system of care for the lead agencies in  
397 those judicial circuits. Such metrics and standards must be  
398 aligned with indicators used in the most recent federal Child  
399 and Family Services Reviews.

400 (b) The lead agencies in the Sixth and Thirteenth Judicial  
401 Circuits shall provide performance data to the department each  
402 quarter. The department shall review the data for accuracy and  
403 completeness and then shall compare the actual performance of  
404 the lead agencies to the established performance metrics and  
405 standards. Each lead agency that exceeds performance metrics and  
406 standards is eligible for incentive funding.

407 (c) For the first quarter of each fiscal year, the  
408 department may advance incentive funding to the lead agencies in  
409 an amount equal to one quarter of the total allocated to the  
410 pilot project. After each quarter, the department shall assess  
411 the performance of the lead agencies for that quarter and adjust  
412 the subsequent quarter's incentive funding based on its actual  
413 prior quarter performance.

414 (d) The department shall include the results of the pilot  
415 projects in the report required under s. 20.19(7). The report  
416 must include the department's findings and recommendations



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417 relating to the pilot projects.

418 (e) This subsection expires July 1, 2022.

419 Section 6. Subsections (6) and (7) of section 1004.615,  
420 Florida Statutes, are renumbered as subsections (9) and (10),  
421 respectively, and new subsections (6), (7), and (8) are added to  
422 that section, to read:

423 1004.615 Florida Institute for Child Welfare.—

424 (6) The institute and the Florida State University College  
425 of Social Work shall design and implement a curriculum that  
426 enhances knowledge and skills for the child welfare practice.  
427 The institute and the college shall create the curriculum using  
428 interactive and interdisciplinary approaches and include  
429 opportunities for students to gain an understanding of real-  
430 world child welfare cases. The institute shall disseminate the  
431 curriculum to other interested state universities and colleges  
432 and provide implementation support. The institute shall contract  
433 with a person or entity of its choosing, by November 1, 2020, to  
434 evaluate the curriculum and make recommendations for  
435 improvement. The college shall implement the curriculum during  
436 the 2021-2022 school year. This subsection is subject to an  
437 appropriation.

438 (7) The institute, in collaboration with the department,  
439 community-based care lead agencies, providers of case management  
440 services, and other child welfare stakeholders, shall design and  
441 implement a career-long professional development curriculum for  
442 child welfare professionals at all levels and from all  
443 disciplines. The professional development curriculum must  
444 enhance the performance of the current child welfare workforce,  
445 address issues related to retention, complement the social work



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446 curriculum, and be developed using social work principles. The  
447 professional development curriculum shall provide career-long  
448 coaching, training, certification, and mentorship. The institute  
449 must provide the professional support on a continuous basis  
450 through online and in-person services. The professional  
451 development curriculum must be available by July 1, 2021. The  
452 Department of Children and Families must approve the curriculum  
453 prior to implementation. This subsection is subject to an  
454 appropriation.

455 (8) The institute shall establish a consulting program for  
456 child welfare organizations to enhance workforce culture,  
457 supervision, and related management processes to improve  
458 retention, effectiveness, and overall well-being of staff to  
459 support improved child welfare outcomes. The institute shall  
460 select child welfare organizations through a competitive  
461 application process and provide ongoing analysis,  
462 recommendations, and support from a team of experts on a long-  
463 term basis to address systemic and operational workforce  
464 challenges. This subsection is subject to an appropriation.

465 Section 7. The Department of Children and Families, in  
466 collaboration with the Florida Institute of Child Welfare, shall  
467 develop an expanded career ladder for child protective  
468 investigations staff. The career ladder shall include multiple  
469 levels of child protective investigator classifications,  
470 corresponding milestones and professional development  
471 opportunities necessary for advancement, and compensation  
472 ranges. The department must submit a proposal for the expanded  
473 career ladder to the Governor, the President of the Senate, and  
474 the Speaker of the House of Representatives no later than



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475 November 1, 2020.

476 Section 8. (1) For the 2020-2021 fiscal year, the sum of  
477 \$8,235,052 in recurring funds is appropriated from the General  
478 Revenue fund to the Department of Children and Families for  
479 incentive funding for the pilot projects required in s.  
480 409.998(25), Florida Statutes, as created by this act.

481 (2) For the 2020-2021 fiscal year the sum of \$5,350,000 in  
482 recurring funds from the General Revenue Fund is appropriated to  
483 the Department of Children and Families, and 2,907,885 in rate  
484 is authorized for the establishment of the Office of Quality, as  
485 required in s. 20.19(7), Florida Statutes. The department is  
486 authorized to reassign up to 125 currently authorized positions  
487 and submit budget amendments pursuant to chapter 216, Florida  
488 Statutes, for the Office of Quality to administer and implement  
489 the provisions of this act.

490 Section 9. Sections 1, 2, and 3 of this act may be cited as  
491 the "State of Hope Act."

492 Section 10. This act shall take effect upon becoming a law.

493  
494 ===== T I T L E A M E N D M E N T =====

495 And the title is amended as follows:

496 Delete everything before the enacting clause  
497 and insert:

498 A bill to be entitled  
499 An act relating to the Department of Children and  
500 Families; amending s. 20.19, F.S.; revising duties and  
501 membership of community alliances; requiring the  
502 department to establish an Office of Quality;  
503 providing duties of the office; requiring the office



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504 to develop and submit a report to the Governor and the  
505 Legislature annually by a specified date; authorizing  
506 the department to adopt rules; amending s. 402.402,  
507 F.S.; requiring the department to implement certain  
508 policies and programs to improve the well being of  
509 certain employees; adding requirements to an annual  
510 report; amending s. 409.988, F.S.; requiring community  
511 based care lead agencies to name a liaison with the  
512 faith-based community; amending s. 409.991, F.S.;  
513 defining the term "core services funds"; requiring the  
514 department to develop a methodology to identify and  
515 report the optimal level of funding for community-  
516 based care lead agencies; providing requirements for  
517 the allocation of core services funds; requiring the  
518 Secretary of the Department of Children and Families  
519 to submit a report to the Governor and Legislature  
520 annually by a specified date; providing requirements  
521 for such report; authorizing the department to adopt  
522 rules; requiring certain funding to be allocated based  
523 on the department's methodology, unless otherwise  
524 specified in the General Appropriations Act; amending  
525 s. 409.996, F.S.; requiring the department to develop  
526 a statewide accountability system; requiring that such  
527 system be implemented by a specified date; providing  
528 requirements for such accountability system; requiring  
529 the department and lead agencies to promote enhanced  
530 quality service delivery; requiring the department to  
531 submit a report to the Governor and the Legislature  
532 annually by a specified date; authorizing the



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533 department to adopt rules; requiring the department to  
534 implement pilot projects to improve child welfare  
535 outcomes in specified judicial circuits; requiring the  
536 department to establish performance metrics and  
537 standards to implement the pilot projects; requiring  
538 lead agencies in specified judicial circuits to  
539 provide certain data to the department each quarter;  
540 requiring the department to review such data;  
541 authorizing the department to advance incentive  
542 funding to certain lead agencies that meet specified  
543 requirements; requiring the department to include  
544 certain results in a specified report; providing for  
545 future expiration; amending s. 1004.615, F.S.; to  
546 require the Institute for Child Welfare to develop a  
547 child welfare education curriculum; develop a child  
548 welfare workforce curriculum; provide a consulting  
549 program for child welfare organizations; requiring the  
550 institute and the Department of Children and Families  
551 to develop a proposal for a career ladder for child  
552 protective investigations staff; providing a short  
553 title; providing an appropriation; providing an  
554 effective date.

By Senator Simpson

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1 A bill to be entitled  
 2 An act relating to the Department of Children and  
 3 Families; providing a short title; amending s. 20.19,  
 4 F.S.; providing for the creation of the Office of  
 5 Quality Assurance and Improvement in the Department of  
 6 Children and Families; requiring the Secretary of  
 7 Children and Families to appoint a chief quality  
 8 officer; providing duties of the chief quality  
 9 officer; creating s. 39.0012, F.S.; providing  
 10 legislative intent; requiring the department to  
 11 annually report certain information to the Governor  
 12 and the Legislature by a specified date; requiring the  
 13 department to publish such report on its website;  
 14 providing requirements for such report; amending s.  
 15 39.01, F.S.; defining terms; amending s. 39.201, F.S.;  
 16 extending the timeframe within which a protective  
 17 investigation is required to be commenced in certain  
 18 circumstances; specifying factors to be considered  
 19 when determining when to commence a protective  
 20 investigation; authorizing certain reports to the  
 21 central abuse hotline to be referred for precrisis  
 22 preventive services; amending s. 39.301, F.S.;  
 23 requiring notification of certain staff of certain  
 24 reports to the central abuse hotline; requiring  
 25 detailed documentation for preventive services;  
 26 requiring the department to incorporate into its  
 27 quality assurance program the monitoring of reports  
 28 that receive preventive services; providing that  
 29 onsite investigation visits must be unannounced unless

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30 a certain finding is made; requiring that contacts  
 31 made involving preventive services be announced unless  
 32 there is no reasonable means to do so; amending s.  
 33 39.3065, F.S.; providing legislative intent; requiring  
 34 certain sheriffs to adopt Florida's Child Welfare  
 35 Practice Model and operate under certain provisions of  
 36 law; requiring the department and sheriffs to  
 37 collaborate and conduct program performance  
 38 evaluations; requiring the department and sheriffs, or  
 39 their designees, to meet at least quarterly for a  
 40 specified purpose; providing that program performance  
 41 evaluations be based on criteria developed by the  
 42 department; requiring such evaluations to be  
 43 standardized using a random sample of cases; revising  
 44 the date by which the department is required to submit  
 45 an annual report to the Governor and the Legislature;  
 46 requiring certain sheriffs to annually submit to the  
 47 department a prevention plan; providing requirements  
 48 for such prevention plans; authorizing the secretary  
 49 of the department to offer resources to sheriffs for  
 50 certain purposes; amending s. 394.67, F.S.; defining  
 51 the term "performance standards and metrics"; amending  
 52 s. 394.9082, F.S.; providing legislative intent;  
 53 requiring the department to annually provide a report  
 54 containing certain information to the Governor and the  
 55 Legislature by a specified date; requiring the  
 56 department to publish such report on its website;  
 57 providing requirements for such report; requiring the  
 58 department to grade each managing entity based on

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59 specified criteria; requiring the department to renew  
 60 contracts with managing entities that receive a  
 61 specified grade; requiring the department to develop a  
 62 system of support and improvement strategies for  
 63 certain managing entities; authorizing the department  
 64 to provide assistance to certain managing entities;  
 65 requiring the department to take certain actions in  
 66 response to managing entities that receive a grade of  
 67 "D" or "F"; authorizing the department to  
 68 competitively procure and contract under certain  
 69 circumstances; authorizing the secretary of the  
 70 department to direct resources to managing entities  
 71 for certain purposes and to terminate contracts with  
 72 certain entities; requiring managing entities to pay  
 73 certain fines incurred by the department; requiring  
 74 managing entities to retain responsibility for any  
 75 failures of compliance if the managing entity  
 76 subcontracts its duties or services; requiring the  
 77 department to conduct program performance evaluations  
 78 of managing entities at least annually; requiring  
 79 managing entities to allow the department access to  
 80 make onsite visits to contracted providers; requiring  
 81 the department to adopt rules; deleting provisions  
 82 relating to a requirement for the department to  
 83 establish performance standards for managing entities;  
 84 amending s. 409.986, F.S.; defining terms; amending s.  
 85 409.991, F.S.; providing legislative findings and  
 86 intent; defining terms; providing for the calculation  
 87 of the allocation of core plus funds; prohibiting the

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88 department from reducing or redistributing the  
 89 allocation budget for certain lead agencies before the  
 90 2023-2024 fiscal year; providing for funding of lead  
 91 agencies; providing for the distribution of additional  
 92 funding to lead agencies; amending s. 409.996, F.S.;  
 93 revising requirements for contracts entered into by  
 94 the department with lead agencies; requiring the  
 95 department to provide grades for lead agencies based  
 96 on specified criteria; requiring the department to  
 97 renew contracts with lead agencies that receive a  
 98 specified grade; requiring the department to develop a  
 99 system of support and improvement strategies for  
 100 certain lead agencies; authorizing the department to  
 101 provide assistance to certain lead agencies; requiring  
 102 the department to take certain actions in response to  
 103 lead agencies that receive a grade of "D" or "F";  
 104 authorizing the department to competitively procure  
 105 and contract under certain circumstances; authorizing  
 106 the secretary of the department to offer resources to  
 107 lead agencies for certain purposes and to terminate  
 108 contracts with certain entities; requiring lead  
 109 agencies to pay certain fines incurred by the  
 110 department; requiring lead agencies to retain  
 111 responsibility for any failures of compliance if the  
 112 lead agency subcontracts its duties or services;  
 113 requiring the department to adopt rules; requiring  
 114 attorneys contracted by the department to adopt  
 115 Florida's Child Welfare Practice Model and to operate  
 116 in accordance with specified provisions of law;

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117 requiring the department and contracted attorneys to  
 118 collaborate and conduct program performance  
 119 evaluations; requiring the department and attorneys or  
 120 their designees to meet at least quarterly for a  
 121 specified purpose; providing requirements for annual  
 122 program performance evaluations; requiring the  
 123 department to annually submit a report containing  
 124 certain information to the Governor and the  
 125 Legislature by a specified date; authorizing the  
 126 secretary of the department to offer resources to  
 127 contracted attorneys for certain purposes; amending s.  
 128 409.997, F.S.; requiring certain data to be provided  
 129 to the Office of Quality Assurance and Improvement;  
 130 requiring the department to conduct certain  
 131 evaluations of lead agencies at least annually;  
 132 requiring lead agencies to allow the department access  
 133 to make onsite visits to contracted providers;  
 134 amending ss. 39.202, 39.502, 39.521, 39.6011, 39.6012,  
 135 39.701, 39.823, 322.09, 393.065, 394.495, 394.674,  
 136 409.987, 409.988, 627.746, 934.255, and 960.065, F.S.;  
 137 conforming cross-references; reenacting and amending  
 138 s. 39.302(1), F.S., relating to protective  
 139 investigations of institutional child abuse,  
 140 abandonment, or neglect, to incorporate the amendments  
 141 made to s. 39.201, F.S.; reenacting ss. 409.988(1)(b)  
 142 and 409.996(1)(a), F.S., relating to lead agency  
 143 duties and duties of the department, respectively, to  
 144 incorporate the amendment made to s. 409.997, F.S., in  
 145 references thereto; providing an effective date.

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146  
 147 Be It Enacted by the Legislature of the State of Florida:  
 148  
 149 Section 1. This act may be cited as the "DCF Accountability  
 150 Act."  
 151 Section 2. Present subsections (5) and (6) of section  
 152 20.19, Florida Statutes, are redesignated as subsections (6) and  
 153 (7), respectively, and a new subsection (5) is added to that  
 154 section, to read:  
 155 20.19 Department of Children and Families.—There is created  
 156 a Department of Children and Families.  
 157 (5) There is created in the department an Office of Quality  
 158 Assurance and Improvement.  
 159 (a) The secretary shall appoint a chief quality officer to  
 160 lead the office and ensure that the department and its service  
 161 providers meet the highest level of performance standards. The  
 162 chief quality officer shall serve at the pleasure of the  
 163 secretary.  
 164 (b) The chief quality officer shall:  
 165 1. Analyze and monitor the development and implementation  
 166 of federal and state laws, rules, and regulations and other  
 167 governmental policies and actions that pertain to persons being  
 168 served by the department.  
 169 2. Develop and implement performance standards and metrics  
 170 for determining the department's compliance with federal and  
 171 state laws, rules, and regulations and other governmental  
 172 policies and actions.  
 173 3. Strengthen the department's data and analytic  
 174 capabilities to identify systemic strengths and deficiencies.

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175 4. Identify performance standards and metrics for the  
 176 department and all other service providers, including, but not  
 177 limited to, law enforcement agencies, managing entities, lead  
 178 agencies, and attorney services.

179 5. Recommend unique and varied initiatives to correct  
 180 programmatic and systemic deficiencies.

181 6. Collaborate and engage partners of the department to  
 182 improve quality, efficiency, and effectiveness.

183 7. Report any persistent failure by the department to meet  
 184 performance standards and recommend to the secretary corrective  
 185 courses prescribed by statute.

186 8. Prepare an annual report of all contractual performance  
 187 metrics, including the most current status of such metrics, to  
 188 the secretary.

189 Section 3. Section 39.0012, Florida Statutes, is created to  
 190 read:  
 191 39.0012 Child welfare accountability.—  
 192 (1) It is the intent of the Legislature that:  
 193 (a) Florida's child welfare system be held accountable for  
 194 providing exemplary services in a manner that is transparent and  
 195 that inspires public confidence in the Department of Children  
 196 and Families.  
 197 (b) The department be held accountable to the Governor and  
 198 the Legislature for carrying out the purposes of, and the  
 199 responsibilities established in, this chapter. It is further the  
 200 intent of the Legislature that the department only contract with  
 201 entities that carry out the purposes of, and the  
 202 responsibilities established in, this chapter.  
 203 (c) The department, other agencies, the courts, law

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204 enforcement agencies, local communities, and other contracted  
 205 child welfare service providers are all held accountable to the  
 206 highest standards.

207 (d) While the department has been directed to delegate the  
 208 duties of child welfare to other entities, law enforcement  
 209 agencies, local communities, and other contracted child welfare  
 210 service providers, the department retains direct responsibility  
 211 for quality assurance.

212 (e) The department, in consultation with child welfare  
 213 service providers, establish overall performance levels and  
 214 metrics for any entity that the department contracts with to  
 215 provide child welfare services.

216 (f) The department acts to offer increasing levels of  
 217 support for child welfare service providers with performance  
 218 deficiencies. However, the department may not continue to  
 219 contract with child welfare service providers that persistently  
 220 fail to meet performance standards and metrics for three or more  
 221 consecutive annual performance reviews.

222 (2) By November 1 of each year, the department shall report  
 223 on all performance levels and contractual performance metrics,  
 224 including the most current status of such levels and metrics, to  
 225 the Governor, the President of the Senate, and the Speaker of  
 226 the House of Representatives. The department must annually  
 227 publish the report on its website. The report must contain the  
 228 following information:  
 229 (a) Performance metrics for the entire child welfare  
 230 system, including grades for the lead agencies.  
 231 (b) Performance metrics by region and type of child welfare  
 232 service provider, including performance levels.

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233 (c) A list of the child welfare service providers not in  
 234 compliance with performance metrics.

235 (d) Detailed corrective action taken, if any, to bring  
 236 child welfare service providers back into compliance with  
 237 performance metrics.

238 Section 4. Present subsections (10) through (12), (13)  
 239 through (29), (30) through (58), and (59) through (87) of  
 240 section 39.01, Florida Statutes, are redesignated as subsections  
 241 (11) through (13), (15) through (31), (33) through (61), and  
 242 (63) through (91), respectively, new subsections (10), (14),  
 243 (32), and (62) are added to that section, and present  
 244 subsections (10) and (37) of that section are amended, to read:

245 39.01 Definitions.—When used in this chapter, unless the  
 246 context otherwise requires:

247 (10) “Best practices” means a method or program that has  
 248 been recognized by the department and has been found to be  
 249 successful for compliance with performance standards and  
 250 metrics.

251 (11)~~(10)~~ “Caregiver” means the parent, legal custodian,  
 252 permanent guardian, adult household member, or other person  
 253 responsible for a child’s welfare as defined in subsection (57)  
 254 ~~(54)~~.

255 (14) “Child welfare service provider” means county and  
 256 municipal governments and agencies, public and private agencies,  
 257 and private individuals and entities with which the department  
 258 has a contract or agreement to carry out the purposes of, and  
 259 responsibilities established in, this chapter.

260 (32) “Florida’s Child Welfare Practice Model” means the  
 261 methodology developed by the department, based on child welfare

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262 statutes and rules, to ensure the permanency, safety, and well-  
 263 being of children.

264 (40)~~(37)~~ “Institutional child abuse or neglect” means  
 265 situations of known or suspected child abuse or neglect in which  
 266 the person allegedly perpetrating the child abuse or neglect is  
 267 an employee of a public or private school, public or private day  
 268 care center, residential home, institution, facility, or agency  
 269 or any other person at such institution responsible for the  
 270 child’s welfare as defined in subsection (57) ~~(54)~~.

271 (62) “Performance standards and metrics” means quantifiable  
 272 measures used to track and assess performance, as determined by  
 273 the department.

274 Section 5. Subsection (5) of section 39.201, Florida  
 275 Statutes, is amended to read:

276 39.201 Mandatory reports of child abuse, abandonment, or  
 277 neglect; mandatory reports of death; central abuse hotline.—

278 (5) The department shall be capable of receiving and  
 279 investigating, 24 hours a day, 7 days a week, reports of known  
 280 or suspected child abuse, abandonment, or neglect and reports  
 281 that a child is in need of supervision and care and has no  
 282 parent, legal custodian, or responsible adult relative  
 283 immediately known and available to provide supervision and care.

284 (a) If it appears that the immediate safety or well-being  
 285 of a child is endangered, that the family may flee or the child  
 286 will be unavailable for purposes of conducting a child  
 287 protective investigation, or that the facts otherwise so  
 288 warrant, the department shall commence an investigation  
 289 immediately, regardless of the time of day or night.

290 (b) In all other child abuse, abandonment, or neglect

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291 cases, a child protective investigation shall be commenced  
 292 within either 24 or 72 hours after receipt of the report,  
 293 depending upon the severity of the alleged abuse, abandonment,  
 294 or neglect and assessed risk to the child.

295 1. Factors to be considered in the assessed severity and  
 296 risk to the child include, but are not limited to:

297 a. Whether the alleged abuse, abandonment, or neglect  
 298 incident is alleged to have occurred more than 30 days prior to  
 299 the reporter's contact with the central abuse hotline.

300 b. Whether there is credible information to support a  
 301 finding that the alleged perpetrator will not have access to the  
 302 alleged child victim for at least 72 hours following the  
 303 reporter's contact with the central abuse hotline.

304 c. Whether the alleged child victim no longer resides at or  
 305 attends the facility where the abuse, abandonment, or neglect is  
 306 alleged to have occurred.

307 2. A child protective investigation must be commenced  
 308 within 24 hours if the incident involves any of the following:

309 a. Sexual abuse allegations.  
 310 b. Human trafficking allegations.  
 311 c. The alleged victim is under 1 year of age.

312 (c) For reports that do not meet the statutory criteria for  
 313 abuse, abandonment, or neglect, but the circumstances  
 314 surrounding a family are precrisis in nature, the department may  
 315 contact and attempt to engage the family in preventive services  
 316 to prevent the need for more intrusive interventions in the  
 317 future.

318 (d) In an institutional investigation, the alleged  
 319 perpetrator may be represented by an attorney, at his or her own

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320 expense, or accompanied by another person, if the person or the  
 321 attorney executes an affidavit of understanding with the  
 322 department and agrees to comply with the confidentiality  
 323 provisions of s. 39.202. The absence of an attorney or other  
 324 person does not prevent the department from proceeding with  
 325 other aspects of the investigation, including interviews with  
 326 other persons. In institutional child abuse cases when the  
 327 institution is not operating and the child cannot otherwise be  
 328 located, the investigation shall commence immediately upon the  
 329 resumption of operation. If requested by a state attorney or  
 330 local law enforcement agency, the department shall furnish all  
 331 investigative reports to that agency.

332 Section 6. Present subsections (14) through (23) of section  
 333 39.301, Florida Statutes, are redesignated as subsections (15)  
 334 through (24), respectively, a new subsection (14) is added to  
 335 that section, and subsections (1), (10), (11), and (13) of that  
 336 section are amended, to read:

337 39.301 Initiation of protective investigations.—

338 (1) Upon receiving a report of known or suspected child  
 339 abuse, abandonment, or neglect, or that a child is in need of  
 340 supervision and care and has no parent, legal custodian, or  
 341 responsible adult relative immediately known and available to  
 342 provide supervision and care, the central abuse hotline shall  
 343 determine if the report requires an immediate onsite protective  
 344 investigation. For reports requiring an immediate onsite  
 345 protective investigation, the central abuse hotline shall  
 346 immediately notify the department's designated regional district  
 347 staff responsible for protective investigations to ensure that  
 348 an onsite investigation is promptly initiated. For reports not

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349 requiring an immediate onsite protective investigation, the  
 350 central abuse hotline shall determine whether the report meets  
 351 criteria for a 24- or 72-hour investigation, or preventive  
 352 services, and notify the department's designated regional  
 353 ~~district~~ staff responsible for protective investigations in  
 354 sufficient time to allow for an investigation. At the time of  
 355 notification, the central abuse hotline shall also provide  
 356 information to regional ~~district~~ staff on any previous report  
 357 concerning a subject of the present report or any pertinent  
 358 information relative to the present report or any noted earlier  
 359 reports.

360 (10) (a) The department's training program for staff  
 361 responsible for responding to reports accepted by the central  
 362 abuse hotline must also ensure that child protective responders:

363 1. Know how to fully inform parents or legal custodians of  
 364 their rights and options, including opportunities for audio or  
 365 video recording of child protective responder interviews with  
 366 parents or legal custodians or children.

367 2. Know how and when to use the injunction process under s.  
 368 39.504 or s. 741.30 to remove a perpetrator of domestic violence  
 369 from the home as an intervention to protect the child.

370 3. Know how to explain to the parent, legal custodian, or  
 371 person who is alleged to have caused the abuse, neglect, or  
 372 abandonment the results of the investigation and to provide  
 373 information about his or her right to access confidential  
 374 reports in accordance with s. 39.202, prior to closing the case.

375 (b) To enhance the skills of individual staff members and  
 376 to improve the region's ~~and district's~~ overall child protection  
 377 system, the department's training program at the regional level

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378 ~~and district levels~~ must include results of qualitative reviews  
 379 of child protective investigation cases handled within the  
 380 region ~~or district~~ in order to identify weaknesses as well as  
 381 examples of effective interventions which occurred at each point  
 382 in the case.

383 (c) For all reports received, detailed documentation is  
 384 required for the investigative activities or preventive  
 385 services.

386 (11) The department shall incorporate into its quality  
 387 assurance program the monitoring of reports that receive a child  
 388 protective investigation or preventive services to determine the  
 389 quality and timeliness of safety assessments, engagements with  
 390 families, teamwork with other experts and professionals, and  
 391 appropriate investigative activities or preventive services that  
 392 are uniquely tailored to the safety factors and service needs  
 393 associated with each child and family.

394 (13) Onsite investigation visits and face-to-face  
 395 interviews with the child or family shall be unannounced unless  
 396 it is determined by the department or its agent or contract  
 397 provider that such unannounced visit would threaten the safety  
 398 of the child.

399 (14) Any contact with the child or family involving  
 400 preventive services must be announced unless the department or  
 401 its agent has no means to schedule a visit with the parent or  
 402 caregiver.

403 Section 7. Section 39.3065, Florida Statutes, is amended to  
 404 read:

405 39.3065 Sheriffs of certain counties to provide child  
 406 protective investigative services; procedures; funding.-

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407 (1) It is the intent of the Legislature that each sheriff  
 408 providing child protective investigative services under this  
 409 section, in consultation with the Department of Children and  
 410 Families, adopt Florida's Child Welfare Practice Model and  
 411 implement a prevention plan for his or her county.

412 (2) As described in this section, the Department of  
 413 Children and Families shall, by the end of fiscal year 1999-  
 414 2000, transfer all responsibility for child protective  
 415 investigations for Pinellas County, Manatee County, Broward  
 416 County, and Pasco County to the sheriff of that county in which  
 417 the child abuse, neglect, or abandonment is alleged to have  
 418 occurred. Each sheriff is responsible for the provision of all  
 419 child protective investigations in his or her county. Each  
 420 individual who provides these services must complete the  
 421 training provided to and required of protective investigators  
 422 employed by the Department of Children and Families.

423 (3) ~~(2)~~ During fiscal year 1998-1999, the Department of  
 424 Children and Families and each sheriff's office shall enter into  
 425 a contract for the provision of these services. Funding for the  
 426 services will be appropriated to the Department of Children and  
 427 Families, and the department shall transfer to the respective  
 428 sheriffs for the duration of fiscal year 1998-1999, funding for  
 429 the investigative responsibilities assumed by the sheriffs,  
 430 including federal funds that the provider is eligible for and  
 431 agrees to earn and that portion of general revenue funds which  
 432 is currently associated with the services that are being  
 433 furnished under contract, and including, but not limited to,  
 434 funding for all investigative, supervisory, and clerical  
 435 positions; training; all associated equipment; furnishings; and

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436 other fixed capital items. The contract must specify whether the  
 437 department will continue to perform part or none of the child  
 438 protective investigations during the initial year. The sheriffs  
 439 may either conduct the investigations themselves or may, in  
 440 turn, subcontract with law enforcement officials or with  
 441 properly trained employees of private agencies to conduct  
 442 investigations related to neglect cases only. If such a  
 443 subcontract is awarded, the sheriff must take full  
 444 responsibility for any safety decision made by the subcontractor  
 445 and must immediately respond with law enforcement staff to any  
 446 situation that requires removal of a child due to a condition  
 447 that poses an immediate threat to the child's life. The contract  
 448 must specify whether the services are to be performed by  
 449 departmental employees or by persons determined by the sheriff.  
 450 During this initial year, the department is responsible for  
 451 quality assurance, and the department retains the responsibility  
 452 for the performance of all child protective investigations. The  
 453 department must identify any barriers to transferring the entire  
 454 responsibility for child protective services to the sheriffs'  
 455 offices and must pursue avenues for removing any such barriers  
 456 by means including, but not limited to, applying for federal  
 457 waivers. By January 15, 1999, the department shall submit to the  
 458 President of the Senate, the Speaker of the House of  
 459 Representatives, and the chairs of the Senate and House  
 460 committees that oversee departmental activities a report that  
 461 describes any remaining barriers, including any that pertain to  
 462 funding and related administrative issues. Unless the  
 463 Legislature, on the basis of that report or other pertinent  
 464 information, acts to block a transfer of the entire

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465 responsibility for child protective investigations to the  
 466 sheriffs' offices, the sheriffs of Pasco County, Manatee County,  
 467 Broward County, and Pinellas County, beginning in fiscal year  
 468 1999-2000, shall assume the entire responsibility for such  
 469 services, as provided in subsection (4) ~~(3)~~.

470 (4) ~~(3)~~ (a) Beginning in fiscal year 1999-2000, the sheriffs  
 471 of Pasco County, Manatee County, Broward County, and Pinellas  
 472 County have the responsibility to provide all child protective  
 473 investigations in their respective counties. Beginning in fiscal  
 474 year 2000-2001, the Department of Children and Families is  
 475 authorized to enter into grant agreements with sheriffs of other  
 476 counties to perform child protective investigations in their  
 477 respective counties.

478 (b) The sheriffs shall adopt Florida's Child Welfare  
 479 Practice Model and operate in accordance with the same federal  
 480 performance standards and metrics regarding child welfare and  
 481 protective investigations imposed on operate, at a minimum, in  
 482 accordance with the performance standards and outcome measures  
 483 established by the Legislature for protective investigations  
 484 conducted by the Department of Children and Families. Each  
 485 individual who provides these services must complete, at a  
 486 minimum, the training provided to and required of protective  
 487 investigators employed by the Department of Children and  
 488 Families.

489 (c) Funds for providing child protective investigations  
 490 must be identified in the annual appropriation made to the  
 491 Department of Children and Families, which shall award grants  
 492 for the full amount identified to the respective sheriffs'  
 493 offices. Notwithstanding ~~the provisions of~~ ss. 216.181(16) (b)

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494 and 216.351, the Department of Children and Families may advance  
 495 payments to the sheriffs for child protective investigations.  
 496 Funds for the child protective investigations may not be  
 497 integrated into the sheriffs' regular budgets. Budgetary data  
 498 and other data relating to the performance of child protective  
 499 investigations must be maintained separately from all other  
 500 records of the sheriffs' offices and reported to the Department  
 501 of Children and Families as specified in the grant agreement.

502 (d) The Department of Children and Families and each  
 503 sheriff shall collaborate and conduct program performance  
 504 evaluations on an ongoing basis. The department and each sheriff  
 505 or their designees shall meet at least quarterly to collaborate  
 506 on federal and state quality assurance and continuous quality  
 507 improvement initiatives.

508 (e) ~~(d)~~ The annual program performance evaluation shall be  
 509 based on criteria developed by mutually agreed upon by the  
 510 respective sheriffs and the Department of Children and Families  
 511 for use with all child protective investigators statewide. The  
 512 program performance evaluation shall be conducted by a team of  
 513 peer reviewers from the respective sheriffs' offices that  
 514 perform child protective investigations and representatives from  
 515 the department. The program performance evaluation shall be  
 516 standardized using a random sample of cases selected by the  
 517 department. The Department of Children and Families shall submit  
 518 an annual report regarding quality performance, outcome-measure  
 519 attainment, and cost efficiency to the President of the Senate,  
 520 the Speaker of the House of Representatives, and ~~to~~ the Governor  
 521 no later than November 1 ~~January 31~~ of each year the sheriffs  
 522 are receiving general appropriations to provide child protective

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523 investigations.

524 (f) By June 30 of each year, each sheriff shall submit to  
 525 the department for approval a prevention plan that details his  
 526 or her approach to prevention within his or her community. The  
 527 plan must include provisions for engaging prevention services at  
 528 the earliest point practicable and for using community  
 529 resources.

530 (g) At any time, the secretary may offer resources to  
 531 sheriffs to address any performance deficiencies that directly  
 532 impact the safety of children in this state.

533 Section 8. Present subsections (17) through (24) of section  
 534 394.67, Florida Statutes, are redesignated as subsections (18)  
 535 through (25), respectively, a new subsection (17) is added to  
 536 that section, and subsection (3) of that section is amended, to  
 537 read:

538 394.67 Definitions.—As used in this part, the term:

539 (3) "Crisis services" means short-term evaluation,  
 540 stabilization, and brief intervention services provided to a  
 541 person who is experiencing an acute mental or emotional crisis,  
 542 as defined in subsection (18) ~~(17)~~, or an acute substance abuse  
 543 crisis, as defined in subsection (19) ~~(18)~~, to prevent further  
 544 deterioration of the person's mental health. Crisis services are  
 545 provided in settings such as a crisis stabilization unit, an  
 546 inpatient unit, a short-term residential treatment program, a  
 547 detoxification facility, or an addictions receiving facility; at  
 548 the site of the crisis by a mobile crisis response team; or at a  
 549 hospital on an outpatient basis.

550 (17) "Performance standards and metrics" means quantifiable  
 551 measures used to track and assess performance, as determined by

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552 the department.

553 Section 9. Subsections (1) and (7) of section 394.9082,  
 554 Florida Statutes, are amended, and paragraph (m) is added to  
 555 subsection (3) of that section, to read:

556 394.9082 Behavioral health managing entities.—

557 (1) INTENT AND PURPOSE.—

558 (a) The Legislature finds that untreated behavioral health  
 559 disorders constitute major health problems for residents of this  
 560 state, are a major economic burden to the citizens of this  
 561 state, and substantially increase demands on the state's  
 562 juvenile and adult criminal justice systems, the child welfare  
 563 system, and health care systems. The Legislature finds that  
 564 behavioral health disorders respond to appropriate treatment,  
 565 rehabilitation, and supportive intervention. The Legislature  
 566 finds that local communities have also made substantial  
 567 investments in behavioral health services, contracting with  
 568 safety net providers who by mandate and mission provide  
 569 specialized services to vulnerable and hard-to-serve populations  
 570 and have strong ties to local public health and public safety  
 571 agencies. The Legislature finds that a regional management  
 572 structure that facilitates a comprehensive and cohesive system  
 573 of coordinated care for behavioral health treatment and  
 574 prevention services will improve access to care, promote service  
 575 continuity, and provide for more efficient and effective  
 576 delivery of substance abuse and mental health services. It is  
 577 the intent of the Legislature that managing entities work to  
 578 create linkages among various services and systems, including  
 579 juvenile justice and adult criminal justice, child welfare,  
 580 housing services, homeless systems of care, and health care.



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581 (b) The purpose of the behavioral health managing entities  
582 is to plan, coordinate, and contract for the delivery of  
583 community mental health and substance abuse services, to improve  
584 access to care, to promote service continuity, to purchase  
585 services, and to support efficient and effective delivery of  
586 services.

587 (c) It is the further intent of the Legislature that:

588 1. The department only contract with managing entities that  
589 carry out the purposes of, and the responsibilities established  
590 in, this chapter.

591 2. The department and the contracted managing entities are  
592 all held accountable to the highest standards. While the  
593 department may delegate the duties of specific services to  
594 managing entities, the department retains responsibility for  
595 quality assurance.

596 3. The department, in consultation with the contracted  
597 managing entities, establish overall performance levels and  
598 metrics for the services provided by the managing entities. The  
599 performance standards set by the department for the contracted  
600 managing entities must, at a minimum, address the tasks  
601 contained in the managing entity's contract with the department.

602 4. The department offers increasing levels of support for  
603 managing entities with performance deficiencies. However, the  
604 department may not continue to contract with managing entities  
605 that consistently fail to meet performance standards and metrics  
606 for three or more consecutive annual performance reviews.

607 (3) DEPARTMENT DUTIES.—The department shall:

608 (m) By November 1 of each year, provide a report on all  
609 performance levels and contractual performance metrics, and the

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610 most current status of such levels and metrics, to the Governor,  
611 the President of the Senate, and the Speaker of the House of  
612 Representatives. The department must annually publish the report  
613 on its website. The report must contain the following  
614 information:

615 1. Performance metrics, including grades, for the managing  
616 entities.

617 2. Performance metrics by region and type of managing  
618 entity, including performance levels.

619 3. A list of the managing entities not in compliance with  
620 performance metrics.

621 4. Detailed corrective action taken, if any, to bring  
622 managing entities back into compliance with performance metrics.

623 (7) PERFORMANCE MEASUREMENT AND ACCOUNTABILITY.—Managing  
624 entities shall collect and submit data to the department  
625 regarding persons served, outcomes of persons served, costs of  
626 services provided through the department's contract, and other  
627 data as required by the department. The department shall  
628 evaluate managing entity performance and the overall progress  
629 made by the managing entity.

630 (a) The department shall provide a grade to each managing  
631 entity based on the department's annual review of the entity's  
632 compliance with performance standards and metrics.

633 (b) A managing entity's performance shall be graded based  
634 on a weighted score of the entity's compliance with performance  
635 standards and metrics using one of the following grades:

636 1. "A," managing entities with a weighted score of 4.0 or  
637 higher.

638 2. "B," managing entities with a weighted score of 3.0 to

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639 3.99.

640 3. "C," managing entities with a weighted score of 2.0 to

641 2.99.

642 4. "D," managing entities with a weighted score of 1.0 to

643 1.99.

644 5. "F," managing entities with a weighted score of less

645 than 1.0.

646 (c) If the current contract has a renewal option, the

647 department shall renew the contract of a managing entity that

648 has received an "A" grade for the 2 years immediately preceding

649 the renewal date of the contract.

650 (d) The department shall develop a multitiered system of

651 support and improvement strategies designed to address low

652 performance of managing entities.

653 (e) The department may provide assistance to any managing

654 entity for the purpose of meeting performance standards and

655 metrics. Assistance may include, but is not limited to,

656 recommendations for best practices and implementation of a

657 corrective action plan.

658 (f) The department shall provide assistance to a managing

659 entity that receives a "C" grade or lower on its annual review

660 until it has improved to at least a "B" grade.

661 (g) For any managing entity that has received a grade of

662 "D" or "F," the department shall take immediate action to engage

663 stakeholders in a needs assessment to develop a turnaround

664 option plan. The turnaround option plan may include, but is not

665 limited to, the implementation of corrective actions and best

666 practices designed to improve performance. The department must

667 review and approve the plan before implementation by the

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668 managing entity.

669 (h) Upon a managing entity's receipt of a third consecutive

670 "D" grade or lower, the department shall initiate proceedings to

671 terminate any contract with the managing entity.

672 (i) If cancellation of a contract with a managing entity

673 occurs in a manner that threatens a lapse in services, the

674 department may procure and contract pursuant to s.

675 287.057(3)(a).

676 (j) At any time, the secretary may offer resources to a

677 managing entity to address any deficiencies in meeting

678 performance standards and metrics which directly impact the

679 safety of persons receiving services from the managing entity.

680 (k) Notwithstanding paragraphs (d) through (j), the

681 secretary, at his or her discretion, may terminate a contract

682 with a managing entity that has received an "F" grade or upon

683 the occurrence of an egregious act or omission by the managing

684 entity or its subcontractor.

685 (l) The managing entity shall pay any federal fines

686 incurred by the department as the result of that managing

687 entity's failure to comply with the performance standards and

688 metrics.

689 (m) If the managing entity subcontracts any of its duties

690 or services, the managing entity shall retain responsibility for

691 its failure to comply with performance standards and metrics.

692 (n) The department shall conduct an onsite program

693 performance evaluation of each managing entity at least once per

694 year. Each managing entity must allow the department access to

695 make onsite visits at its discretion to any contracted provider.

696 The onsite evaluation shall consist of a review of a random

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697 ~~sample of cases selected by the department.~~

698 (o) The department shall adopt rules to administer this  
 699 ~~section , together with other systems, in meeting the~~  
 700 ~~community's behavioral health needs, based on consumer-centered~~  
 701 ~~outcome measures that reflect national standards, if possible,~~  
 702 ~~that can be accurately measured. The department shall work with~~  
 703 ~~managing entities to establish performance standards, including,~~  
 704 ~~but not limited to:~~

705 ~~(a) The extent to which individuals in the community~~  
 706 ~~receive services, including, but not limited to, parents or~~  
 707 ~~caregivers involved in the child welfare system who need~~  
 708 ~~behavioral health services.~~

709 ~~(b) The improvement in the overall behavioral health of a~~  
 710 ~~community.~~

711 ~~(c) The improvement in functioning or progress in the~~  
 712 ~~recovery of individuals served by the managing entity, as~~  
 713 ~~determined using person-centered measures tailored to the~~  
 714 ~~population.~~

715 ~~(d) The success of strategies to:~~

716 ~~1. Divert admissions from acute levels of care, jails,~~  
 717 ~~prisons, and forensic facilities as measured by, at a minimum,~~  
 718 ~~the total number and percentage of clients who, during a~~  
 719 ~~specified period, experience multiple admissions to acute levels~~  
 720 ~~of care, jails, prisons, or forensic facilities;~~

721 ~~2. Integrate behavioral health services with the child~~  
 722 ~~welfare system; and~~

723 ~~3. Address the housing needs of individuals being released~~  
 724 ~~from public receiving facilities who are homeless.~~

725 ~~(e) Consumer and family satisfaction.~~

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726 ~~(f) The level of engagement of key community~~  
 727 ~~constituencies, such as law enforcement agencies, community-~~  
 728 ~~based care lead agencies, juvenile justice agencies, the courts,~~  
 729 ~~school districts, local government entities, hospitals, and~~  
 730 ~~other organizations, as appropriate, for the geographical~~  
 731 ~~service area of the managing entity.~~

732 Section 10. Subsection (3) of section 409.986, Florida  
 733 Statutes, is amended to read:

734 409.986 Legislative findings and intent; child protection  
 735 and child welfare outcomes; definitions.-

736 (3) DEFINITIONS.-As used in this part, except as otherwise  
 737 provided, the term:

738 (a) "Best practices" means a method or program that has  
 739 been recognized by the department and has been found to be  
 740 successful for ensuring compliance with performance standards  
 741 and metrics.

742 (b) (a) "Care" means services of any kind which are designed  
 743 to facilitate a child remaining safely in his or her own home,  
 744 returning safely to his or her own home if he or she is removed  
 745 from the home, or obtaining an alternative permanent home if he  
 746 or she cannot remain at home or be returned home. The term  
 747 includes, but is not limited to, prevention, diversion, and  
 748 related services.

749 (c) (b) "Child" or "children" has the same meaning as  
 750 provided in s. 39.01.

751 (d) (e) "Community alliance" or "alliance" means the group  
 752 of stakeholders, community leaders, client representatives, and  
 753 fundors of human services established pursuant to s. 20.19(6) ~~s.~~  
 754 20.19(5) to provide a focal point for community participation

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755 and oversight of community-based services.

756 ~~(e)(d)~~ "Community-based care lead agency" or "lead agency"  
757 means a single entity with which the department has a contract  
758 for the provision of care for children in the child protection  
759 and child welfare system in a community that is no smaller than  
760 a county and no larger than two contiguous judicial circuits.  
761 The secretary of the department may authorize more than one  
762 eligible lead agency within a single county if doing so will  
763 result in more effective delivery of services to children.

764 (f) "Florida's Child Welfare Practice Model" means the  
765 methodology developed by the department based on child welfare  
766 statutes and rules to ensure the permanency, safety, and well-  
767 being of children.

768 (g) "Performance standards and metrics" means quantifiable  
769 measures used to track and assess performance as determined by  
770 the department.

771 (h)(e) "Related services" includes, but is not limited to,  
772 family preservation, independent living, emergency shelter,  
773 residential group care, foster care, therapeutic foster care,  
774 intensive residential treatment, foster care supervision, case  
775 management, coordination of mental health services,  
776 postplacement supervision, permanent foster care, and family  
777 reunification.

778 Section 11. Section 409.991, Florida Statutes, is amended  
779 to read:

780 (Substantial rewording of section. See s. 409.991,  
781 F.S., for present text.)

782 409.991 Allocation of funds for community-based care lead  
783 agencies.-

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784 (1) (a) The Legislature finds that there is a need for  
785 accountability across the child welfare system and that the  
786 distribution of equitable funding across the system to  
787 community-based care lead agencies is necessary to ensure the  
788 provision of quality services to all persons being served by the  
789 contracted lead agencies.

790 (b) It is the intent of the Legislature that the department  
791 calculate funding for lead agencies using a consistent and  
792 equitable allocation formula to ensure the provision of quality  
793 services to all persons being served by the department.

794 (2) As used in this section, the term:

795 (a) "Area cost differential" means the district cost  
796 differential as computed in s. 1011.62(2).

797 (b) "Caseload" is determined by the following factors:

798 1. For case managers and program support, caseload is the  
799 most recent month-end average of in-home and out-of-home  
800 children using counts from the department's child welfare  
801 information system for the most recent 24 months.

802 2. For foster home recruiters and initial licensing staff,  
803 homes needed is the sum of 25 percent of the current homes  
804 licensed using the most recent month data available plus one-  
805 third of the total new homes needed.

806 3. New homes needed is calculated as 1.6 times the current  
807 number of children in foster homes and group homes less the  
808 current number of licensed homes.

809 4. Homes relicensed is calculated as 75 percent of the  
810 current homes licensed using the most recent month data  
811 available.

812 5. Removals are the most recent annual average for the

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813 previous 24 months for staff costs, except for the previous 12  
 814 months for board costs, including, but not limited to, clothing.  
 815 6. The average number of adoptions finalized during the  
 816 most recent 24 months.  
 817 7. For board, licensed care caseload is the most recent  
 818 month-end average of foster home, group home and residential  
 819 treatment facility using counts from the department's child  
 820 welfare information system for the most recent 12 months.  
 821 (c) "Core plus funds" means:  
 822 1. All funds made available in the community-based care  
 823 lead agency category of the General Appropriations Act for the  
 824 applicable fiscal year. The term does not include funds  
 825 appropriated in the community-based care lead agency category of  
 826 the General Appropriations Act for the applicable fiscal year  
 827 for independent living.  
 828 2. All funds allocated by contract with the department to  
 829 the lead agency for substance abuse and mental health, or any  
 830 funds directly contracted by the department for the sole benefit  
 831 of the lead agency.  
 832 (d) "Florida funding for children model" means an  
 833 allocation model that uses the following factors:  
 834 1. Prevention services;  
 835 2. Client services;  
 836 3. Licensed out-of-home care; and  
 837 4. Staffing.  
 838 (e) "Group home ceiling" means the difference between the  
 839 actual group home average census and the expected group home  
 840 census times 50 percent of the average group home board payment.  
 841 For purposes of this paragraph:

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842 1. "Actual group home average" means the monthly average  
 843 number of children in group care and residential treatment  
 844 facilities for the prior 12 months.  
 845 2. "Expected group home census" means the total number of  
 846 removals for the prior 12 months times 1.4 times the ceiling  
 847 percentage. The ceiling percentage is 10 percent for the 2021-  
 848 2022 fiscal year, 9 percent for the 2022-2023 fiscal year, and 8  
 849 percent for the 2023-2024 fiscal year and all subsequent years.  
 850 (f) "Optimal funding amount" means 100 percent of the  
 851 Florida funding for children model amount as calculated by the  
 852 department.  
 853 (g) "Prevention services" means any services or costs  
 854 incurred to prevent children from entering or re-entering foster  
 855 care, or any services provided to the child or the child's  
 856 family or caregiver.  
 857 (3) The allocation of core plus funds shall be calculated  
 858 based on the total of prevention services, client services,  
 859 licensed out-of-home care, and staffing and a comparison of the  
 860 total optimal funding amount to the actual allocated funding  
 861 amount for the most recent fiscal year used to determine the  
 862 percentage of optimal funding the lead agency is currently  
 863 receiving.  
 864 (a) Prevention services shall be determined by the most  
 865 recent fiscal year of prevention spending by the lead agency  
 866 plus 10 percent for general and administrative costs.  
 867 1. If final expenditure reporting has not yet been  
 868 completed, an estimate made to be used for the initial  
 869 allocation and final allocations are determined after the  
 870 expenditure reporting has been completed.

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871 2. If a lead agency's board costs from the previous year  
 872 are reduced, the savings in board costs may be transferred to  
 873 prevention services in the following year and counted towards  
 874 prevention spending by the lead agency.

875 (b) Client services shall be calculated as an average  
 876 amount per caseload as determined by the department then  
 877 multiplied by the area cost differential. Caseload is determined  
 878 by adding together the following:

879 1. The most recent month-end average of in-home and out-of-  
 880 home children using counts from the department's child welfare  
 881 information system for the most recent 24 months; and

882 2. The average annual number of adoption finalizations  
 883 calculated based on the most recent 24 months.

884 (c) Licensed out-of-home care is calculated based on board  
 885 costs.

886 1. Board costs are calculated by multiplying the annual  
 887 licensed care caseload times the average board rate plus the  
 888 number of annual removals times initial clothing allowance as  
 889 determined by the department.

890 2. The annual licensed care caseload is determined by  
 891 adding together the following:

892 a. The month-end average of foster home, group home and  
 893 residential treatment facility using counts from the  
 894 department's child welfare information system for the most  
 895 recent 12 months.

896 b. The estimated number of Level 1 foster homes as  
 897 determined by calculating 40 percent of the total relative and  
 898 nonrelative placements for the most recent 12 months.

899 c. The average board rate is the most recent total amount

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900 of full month payments for all items charged for room and board  
 901 in the department's child welfare information system divided by  
 902 the number of children included in those payments divided by the  
 903 number of days in that month.

904 (d) Staffing is calculated based on the following:

905 1. Staffing need as determined by the following defined  
 906 ratios:

907 a. The ratio for case managers as follows:

908 (I) One case manager per 17 children for the 2020-2021  
 909 fiscal year.

910 (II) One case manager per 16 children for the 2021-2022  
 911 fiscal year.

912 (III) One case manager per 15 children for the 2022-2023  
 913 fiscal year.

914 (IV) One case manager per 14 children for the 2023-2024  
 915 fiscal year and all subsequent years.

916 b. One case manager supervisor per five case managers.

917 c. One paraprofessional per four case managers.

918 d. One safety practice expert per lead agency.

919 e. One other professional staff per lead agency plus 1 per  
 920 every 100 case managers, rounded to the nearest whole number.

921 f. One service coordinator per 20 case managers.

922 g. One service coordination supervisor per five service  
 923 coordinators.

924 h. One foster home recruiter per every 50 homes needed.

925 i. One licensing staff:

926 (I) Per every 16 new homes needed;

927 (II) Per every 20 homes relicensed; and

928 (III) Per every 50 Level 1 homes licensed.

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929 j. One placement staff per every 168 removals.

930 k. One out-of-home care supervisor per every five of the

931 total number of foster home recruiters and all licensing staff

932 and placement staff.

933 l. One adoption staff per every 51.33 adoptions.

934 m. One adoption supervisor per five adoption staff.

935 n. One director staff per every five of the total number of

936 case manager supervisors, service coordination supervisors, out-

937 of-home care supervisors, and adoption supervisors, rounded to

938 the nearest whole number.

939 o. One administrative support staff per every four of the

940 total number of case manager supervisors, service coordination

941 supervisors, out-of-home care supervisors, and adoption

942 supervisors.

943 2. Program support is calculated by multiplying the average

944 caseload times the Florida average cost per caseload, determined

945 by the department annually. The caseload is determined by adding

946 together the following:

947 a. The most recent month-end average of in-home and out-of-

948 home children using counts from the department's child welfare

949 information system for the most recent 24 months.

950 b. The average annual number of adoption finalizations

951 calculated based on the most recent 24 months.

952 3. Area cost differential.

953 4. Per position costs for all noted staff positions, as

954 determined by the department annually.

955 5. General and administrative costs of 10 percent

956 multiplied by the total staff costs including all items above.

957 (4) Before full implementation in the 2023-2024 fiscal

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958 year, the department may not reduce or redistribute the

959 allocation budget for a lead agency that is funded at more than

960 110 percent of its optimal funding amount.

961 (5) Unless otherwise specified in the General

962 Appropriations Act, any new core plus funds shall be allocated

963 based on the Florida funding for children model to achieve 90

964 percent or more of optimal funding for all lead agencies.

965 (6) Unless otherwise specified in the General

966 Appropriations Act, any new funds for core services shall be

967 allocated based on the Florida funding for children model.

968 (7) Beginning with the 2020-2021 fiscal year, any

969 additional funding provided to lead agencies must be distributed

970 following the establishment of performance standards and metrics

971 in accordance with rules adopted by the department. For

972 subsequent years, any additional funding provided to lead

973 agencies by the Legislature must be distributed by the

974 department as follows:

975 (a) On July 1, 50 percent of the total additional funding

976 allocated to the lead agency must be distributed.

977 (b) By January 1, the department must evaluate specified

978 performance standards and metrics for the lead agency to

979 determine whether the lead agency's performance has improved

980 since the initial funding was distributed on July 1. If the

981 Office of Quality Assurance and Improvement determines that the

982 lead agency has improved in performance standards and metrics,

983 then the remaining funding must be distributed by February 1. If

984 the lead agency fails to improve performance, then the remaining

985 funding must be redistributed to other lead agencies as

986 determined by the Florida funding for children model.

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987 Section 12. Present subsections (2) through (23) of section  
988 409.996, Florida Statutes, are redesignated as subsections (16)  
989 through (37), respectively, new subsections (2) through (15) are  
990 added to that section, and subsection (1) and present  
991 subsections (17) and (21) are amended, to read:

992 409.996 Duties of the Department of Children and Families.—  
993 The department shall contract for the delivery, administration,  
994 or management of care for children in the child protection and  
995 child welfare system. In doing so, the department retains  
996 responsibility for the quality of contracted services and  
997 programs and shall ensure that services are delivered in  
998 accordance with applicable federal and state statutes and  
999 regulations.

1000 (1) The department shall enter into contracts with lead  
1001 agencies for the performance of the duties by the lead agencies  
1002 pursuant to s. 409.988. At a minimum, the contracts must:

1003 (a) Provide for the services needed to accomplish the  
1004 duties established in s. 409.988 and provide information to the  
1005 department which is necessary to meet the requirements for a  
1006 quality assurance program pursuant to subsection (32) ~~(18)~~ and  
1007 the child welfare results-oriented accountability system  
1008 pursuant to s. 409.997.

1009 (b) Provide for graduated penalties for failure to comply  
1010 with contract terms, including the department terminating the  
1011 contract for failure to meet the performance standards and  
1012 metrics set by the department. The performance standards set by  
1013 the department for the lead agencies must, at a minimum, address  
1014 the following areas:

1015 1. Abuse per 100,000 days in out-of-home care;

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1016 2. Abuse during in-home services;  
1017 3. Children entering care and achieving permanency within  
1018 12 months;  
1019 4. Children in care 12 to 23 months achieving permanency  
1020 within 12 months;  
1021 5. Abuse within 6 months of closure of services;  
1022 6. Children receiving dental services;  
1023 7. Children receiving medical services;  
1024 8. Children under supervision who are seen every 30 days;  
1025 9. Children who do not reenter care within 12 months of  
1026 moving to a permanent home;  
1027 10. Placement moves per 1,000 days in out-of-home care;  
1028 11. Sibling groups where all siblings are placed together;  
1029 and  
1030 12. Young adults aging out and educational achievement.

1031  
1032 Such penalties may include financial penalties, enhanced  
1033 monitoring and reporting, corrective action plans, and early  
1034 termination of contracts or other appropriate action to ensure  
1035 contract compliance. The financial penalties shall require a  
1036 lead agency to reallocate funds from administrative costs to  
1037 direct care for children.

1038 (c) Ensure that the lead agency shall furnish current and  
1039 accurate information on its activities in all cases in client  
1040 case records in the state's statewide automated child welfare  
1041 information system.

1042 (d) Specify the procedures to be used by the parties to  
1043 resolve differences in interpreting the contract or to resolve  
1044 disputes as to the adequacy of the parties' compliance with



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1045 their respective obligations under the contract.

1046 (2) The department shall provide a grade for each lead  
 1047 agency based on the department's annual review of the agency's  
 1048 compliance with performance standards and metrics.

1049 (3) A lead agency's performance shall be graded based on a  
 1050 weighted score of its compliance with performance standards and  
 1051 metrics using one of the following grades:

1052 (a) "A," lead agencies with a weighted score of 4.0 or  
 1053 higher.

1054 (b) "B," lead agencies with a weighted score of 3.0 to  
 1055 3.99.

1056 (c) "C," lead agencies with a weighted score of 2.0 to  
 1057 2.99.

1058 (d) "D," lead agencies with a weighted score of 1.0 to  
 1059 1.99.

1060 (e) "F," lead agencies with a weighted score of less than  
 1061 1.0.

1062 (4) If the current contract has a renewal option, the  
 1063 department shall renew the contract of a lead agency that has  
 1064 received an "A" grade for the 2 years immediately preceding the  
 1065 renewal date of the contract.

1066 (5) The department shall develop a multitiered system of  
 1067 support and improvement strategies designed to address the low  
 1068 performance of a lead agency.

1069 (6) The department may provide assistance to a lead agency  
 1070 for the purpose of meeting performance standards and metrics.  
 1071 Assistance may include, but is not limited to, recommendations  
 1072 for best practices and implementation of a corrective action  
 1073 plan.

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1074 (7) The department shall provide assistance to a lead  
 1075 agency that receives a "C" grade or lower on its annual review  
 1076 until such time that it has improved to at least a "B" grade.

1077 (8) For any lead agency that has received a "D" or "F"  
 1078 grade, the department shall take immediate action to engage  
 1079 stakeholders in a needs assessment to develop a turnaround  
 1080 option plan. The turnaround option plan may include, but is not  
 1081 limited to, the implementation of corrective actions and best  
 1082 practices designed to improve performance. The department must  
 1083 review and approve the plan before implementation by the lead  
 1084 agency.

1085 (9) If cancellation of a contract with a lead agency occurs  
 1086 in a manner that threatens a lapse in services, the department  
 1087 may procure and contract pursuant to s. 287.057(3)(a).

1088 (10) Upon a lead agency's receipt of a third consecutive  
 1089 "D" grade or lower, the department must initiate proceedings to  
 1090 terminate any contract with the lead agency.

1091 (11) At any time, the secretary may offer resources to a  
 1092 lead agency to address any deficiencies in meeting performance  
 1093 standards and metrics which directly impact the safety of  
 1094 children.

1095 (12) Notwithstanding subsections (5) through (11), the  
 1096 secretary, at his or her discretion, may terminate a contract  
 1097 with a lead agency that has received an "F" grade or upon the  
 1098 occurrence of an egregious act or omission by the lead agency or  
 1099 its subcontractor.

1100 (13) The lead agency shall pay any federal fines incurred  
 1101 by the department as the result of that lead agency's failure to  
 1102 comply with the performance standards and metrics.

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1103 (14) If the lead agency chooses to subcontract any duties  
 1104 or services, the lead agency shall retain responsibility for its  
 1105 failure to comply with performance standards and metrics.

1106 (15) The department shall adopt rules to administer  
 1107 subsections (2) through (14).

1108 ~~(31)-(17)~~ The department shall directly or through contract  
 1109 provide attorneys to prepare and present cases in dependency  
 1110 court and shall ensure that the court is provided with adequate  
 1111 information for informed decisionmaking in dependency cases,  
 1112 including a face sheet for each case which lists the names and  
 1113 contact information for any child protective investigator, child  
 1114 protective investigation supervisor, case manager, and case  
 1115 manager supervisor, and the regional department official  
 1116 responsible for the lead agency contract. The department shall  
 1117 provide to the court the case information and recommendations  
 1118 provided by the lead agency or subcontractor. For the Sixth  
 1119 Judicial Circuit, the department shall contract with the state  
 1120 attorney for the provision of these services.

1121 (a) The contracted attorneys shall adopt Florida's Child  
 1122 Welfare Practice Model and operate in accordance with the same  
 1123 federal performance standards and metrics regarding child  
 1124 welfare and protective investigations imposed on the department.

1125 (b) Program performance evaluations shall be collaborative  
 1126 and conducted on an ongoing basis. The department and each  
 1127 contracted attorney or their designee shall meet at least  
 1128 quarterly to collaborate on federal and state quality assurance  
 1129 and continuous quality improvement initiatives.

1130 (c) Annual program performance evaluation shall be based on  
 1131 criteria developed by the department for use with all children's

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1132 legal services counsel statewide. The program performance  
 1133 evaluation shall be conducted by a team of peer reviewers from  
 1134 the respective attorneys' offices that perform children's legal  
 1135 services and representatives from the department. The program  
 1136 performance evaluation shall be standardized using a random  
 1137 sample of cases selected by the department. By November 1 of  
 1138 each year, the department shall submit an annual report to the  
 1139 Governor, the President of the Senate, and the Speaker of the  
 1140 House of Representatives regarding quality performance, outcome-  
 1141 measure attainment, and cost efficiency of contracted attorneys  
 1142 who receive general appropriations to provide children's legal  
 1143 services for the department.

1144 (d) At any time, the secretary may offer resources to a  
 1145 contracted attorney to address any performance deficiencies that  
 1146 directly impact the safety of children.

1147 ~~(35)-(21)~~ The department shall periodically, and before  
 1148 procuring a lead agency, solicit comments and recommendations  
 1149 from the community alliance established in s. 20.19(6) ~~or~~  
 1150 ~~20.19(5)~~, any other community groups, or public hearings. The  
 1151 recommendations must include, but are not limited to:

1152 (a) The current and past performance of a lead agency.

1153 (b) The relationship between a lead agency and its  
 1154 community partners.

1155 (c) Any local conditions or service needs in child  
 1156 protection and child welfare.

1157 Section 13. Subsection (4) is added to section 409.997,  
 1158 Florida Statutes, and subsection (2) of that section is  
 1159 republished, to read:

1160 409.997 Child welfare results-oriented accountability

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1161 program.-

1162 (2) The purpose of the results-oriented accountability  
 1163 program is to monitor and measure the use of resources, the  
 1164 quality and amount of services provided, and child and family  
 1165 outcomes. The program includes data analysis, research review,  
 1166 and evaluation. The program shall produce an assessment of  
 1167 individual entities' performance, as well as the performance of  
 1168 groups of entities working together on a local, regional, and  
 1169 statewide basis to provide an integrated system of care. Data  
 1170 analyzed and communicated through the accountability program  
 1171 shall inform the department's development and maintenance of an  
 1172 inclusive, interactive, and evidence-supported program of  
 1173 quality improvement which promotes individual skill building as  
 1174 well as organizational learning. Additionally, outcome data  
 1175 generated by the program may be used as the basis for payment of  
 1176 performance incentives if funds for such payments are made  
 1177 available through the General Appropriations Act. The  
 1178 information compiled and utilized in the accountability program  
 1179 must incorporate, at a minimum:

1180 (a) Valid and reliable outcome measures for each of the  
 1181 goals specified in this subsection. The outcome data set must  
 1182 consist of a limited number of understandable measures using  
 1183 available data to quantify outcomes as children move through the  
 1184 system of care. Such measures may aggregate multiple variables  
 1185 that affect the overall achievement of the outcome goals. Valid  
 1186 and reliable measures must be based on adequate sample sizes, be  
 1187 gathered over suitable time periods, and reflect authentic  
 1188 rather than spurious results, and may not be susceptible to  
 1189 manipulation.

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1190 (b) Regular and periodic monitoring activities that track  
 1191 the identified outcome measures on a statewide, regional, and  
 1192 provider-specific basis. Monitoring reports must identify trends  
 1193 and chart progress toward achievement of the goals specified in  
 1194 this subsection. The accountability program may not rank or  
 1195 compare performance among community-based care regions unless  
 1196 adequate and specific adjustments are adopted which account for  
 1197 the diversity in regions' demographics, resources, and other  
 1198 relevant characteristics. The requirements of the monitoring  
 1199 program may be incorporated into the department's quality  
 1200 assurance program.

1201 (c) An analytical framework that builds on the results of  
 1202 the outcomes monitoring procedures and assesses the statistical  
 1203 validity of observed associations between child welfare  
 1204 interventions and the measured outcomes. The analysis must use  
 1205 quantitative methods to adjust for variations in demographic or  
 1206 other conditions. The analysis must include longitudinal studies  
 1207 to evaluate longer term outcomes, such as continued safety,  
 1208 family permanence, and transition to self-sufficiency. The  
 1209 analysis may also include qualitative research methods to  
 1210 provide insight into statistical patterns.

1211 (d) A program of research review to identify interventions  
 1212 that are supported by evidence as causally linked to improved  
 1213 outcomes.

1214 (e) An ongoing process of evaluation to determine the  
 1215 efficacy and effectiveness of various interventions. Efficacy  
 1216 evaluation is intended to determine the validity of a causal  
 1217 relationship between an intervention and an outcome.  
 1218 Effectiveness evaluation is intended to determine the extent to

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1219 which the results can be generalized.

1220 (f) Procedures for making the results of the accountability  
1221 program transparent for all parties involved in the child  
1222 welfare system as well as policymakers and the public, which  
1223 shall be updated at least quarterly and published on the  
1224 department's website in a manner that allows custom searches of  
1225 the performance data. The presentation of the data shall provide  
1226 a comprehensible, visual report card for the state and each  
1227 community-based care region, indicating the current status of  
1228 the outcomes relative to each goal and trends in that status  
1229 over time. The presentation shall identify and report outcome  
1230 measures that assess the performance of the department, the  
1231 community-based care lead agencies, and their subcontractors  
1232 working together to provide an integrated system of care.

1233 (g) An annual performance report that is provided to  
1234 interested parties including the dependency judge or judges in  
1235 the community-based care service area. The report shall be  
1236 submitted to the Governor, the President of the Senate, and the  
1237 Speaker of the House of Representatives by October 1 of each  
1238 year.

1239 (4) Data generated in accordance with this section shall be  
1240 provided directly to the department's Office of Quality  
1241 Assurance and Improvement in a manner dictated by the  
1242 department. The department shall conduct an onsite program  
1243 performance evaluation of each lead agency at least once per  
1244 year. The department must also have access to make onsite visits  
1245 at its discretion to any provider contracted by the lead agency.  
1246 The onsite evaluation must consist of a review using a random  
1247 sample of cases selected by the department.

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1248 Section 14. Paragraph (t) of subsection (2) of section  
1249 39.202, Florida Statutes, is amended to read:

1250 39.202 Confidentiality of reports and records in cases of  
1251 child abuse or neglect.—

1252 (2) Except as provided in subsection (4), access to such  
1253 records, excluding the name of, or other identifying information  
1254 with respect to, the reporter which shall be released only as  
1255 provided in subsection (5), shall be granted only to the  
1256 following persons, officials, and agencies:

1257 (t) Persons with whom the department is seeking to place  
1258 the child or to whom placement has been granted, including  
1259 foster parents for whom an approved home study has been  
1260 conducted, the designee of a licensed child-caring agency as  
1261 defined in s. 39.01(44) ~~s. 39.01(41)~~, an approved relative or  
1262 nonrelative with whom a child is placed pursuant to s. 39.402,  
1263 preadoptive parents for whom a favorable preliminary adoptive  
1264 home study has been conducted, adoptive parents, or an adoption  
1265 entity acting on behalf of preadoptive or adoptive parents.

1266 Section 15. Subsections (1) and (19) of section 39.502,  
1267 Florida Statutes, are amended to read:

1268 39.502 Notice, process, and service.—

1269 (1) Unless parental rights have been terminated, all  
1270 parents must be notified of all proceedings or hearings  
1271 involving the child. Notice in cases involving shelter hearings  
1272 and hearings resulting from medical emergencies must be that  
1273 most likely to result in actual notice to the parents. In all  
1274 other dependency proceedings, notice must be provided in  
1275 accordance with subsections (4)-(9), except when a relative  
1276 requests notification pursuant to s. 39.301(15)(b) ~~s.~~

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1277 ~~39.301(14)(b)~~, in which case notice shall be provided pursuant  
1278 to subsection (19).

1279 (19) In all proceedings and hearings under this chapter,  
1280 the attorney for the department shall notify, orally or in  
1281 writing, a relative requesting notification pursuant to s.  
1282 39.301(15)(b) ~~s. 39.301(14)(b)~~ of the date, time, and location  
1283 of such proceedings and hearings, and notify the relative that  
1284 he or she has the right to attend all subsequent proceedings and  
1285 hearings, to submit reports to the court, and to speak to the  
1286 court regarding the child, if the relative so desires. The court  
1287 has the discretion to release the attorney for the department  
1288 from notifying a relative who requested notification pursuant to  
1289 s. 39.301(15)(b) ~~s. 39.301(14)(b)~~ if the relative's involvement  
1290 is determined to be impeding the dependency process or  
1291 detrimental to the child's well-being.

1292 Section 16. Paragraph (c) of subsection (1) of section  
1293 39.521, Florida Statutes, is amended to read:

1294 39.521 Disposition hearings; powers of disposition.-

1295 (1) A disposition hearing shall be conducted by the court,  
1296 if the court finds that the facts alleged in the petition for  
1297 dependency were proven in the adjudicatory hearing, or if the  
1298 parents or legal custodians have consented to the finding of  
1299 dependency or admitted the allegations in the petition, have  
1300 failed to appear for the arraignment hearing after proper  
1301 notice, or have not been located despite a diligent search  
1302 having been conducted.

1303 (c) When any child is adjudicated by a court to be  
1304 dependent, the court having jurisdiction of the child has the  
1305 power by order to:

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1306 1. Require the parent and, when appropriate, the legal  
1307 guardian or the child to participate in treatment and services  
1308 identified as necessary. The court may require the person who  
1309 has custody or who is requesting custody of the child to submit  
1310 to a mental health or substance abuse disorder assessment or  
1311 evaluation. The order may be made only upon good cause shown and  
1312 pursuant to notice and procedural requirements provided under  
1313 the Florida Rules of Juvenile Procedure. The mental health  
1314 assessment or evaluation must be administered by a qualified  
1315 professional as defined in s. 39.01, and the substance abuse  
1316 assessment or evaluation must be administered by a qualified  
1317 professional as defined in s. 397.311. The court may also  
1318 require such person to participate in and comply with treatment  
1319 and services identified as necessary, including, when  
1320 appropriate and available, participation in and compliance with  
1321 a mental health court program established under chapter 394 or a  
1322 treatment-based drug court program established under s. 397.334.  
1323 Adjudication of a child as dependent based upon evidence of harm  
1324 as defined in s. 39.01(38)(g) ~~s. 39.01(35)(g)~~ demonstrates good  
1325 cause, and the court shall require the parent whose actions  
1326 caused the harm to submit to a substance abuse disorder  
1327 assessment or evaluation and to participate and comply with  
1328 treatment and services identified in the assessment or  
1329 evaluation as being necessary. In addition to supervision by the  
1330 department, the court, including the mental health court program  
1331 or the treatment-based drug court program, may oversee the  
1332 progress and compliance with treatment by a person who has  
1333 custody or is requesting custody of the child. The court may  
1334 impose appropriate available sanctions for noncompliance upon a

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1335 person who has custody or is requesting custody of the child or  
 1336 make a finding of noncompliance for consideration in determining  
 1337 whether an alternative placement of the child is in the child's  
 1338 best interests. Any order entered under this subparagraph may be  
 1339 made only upon good cause shown. This subparagraph does not  
 1340 authorize placement of a child with a person seeking custody of  
 1341 the child, other than the child's parent or legal custodian, who  
 1342 requires mental health or substance abuse disorder treatment.

1343 2. Require, if the court deems necessary, the parties to  
 1344 participate in dependency mediation.

1345 3. Require placement of the child either under the  
 1346 protective supervision of an authorized agent of the department  
 1347 in the home of one or both of the child's parents or in the home  
 1348 of a relative of the child or another adult approved by the  
 1349 court, or in the custody of the department. Protective  
 1350 supervision continues until the court terminates it or until the  
 1351 child reaches the age of 18, whichever date is first. Protective  
 1352 supervision shall be terminated by the court whenever the court  
 1353 determines that permanency has been achieved for the child,  
 1354 whether with a parent, another relative, or a legal custodian,  
 1355 and that protective supervision is no longer needed. The  
 1356 termination of supervision may be with or without retaining  
 1357 jurisdiction, at the court's discretion, and shall in either  
 1358 case be considered a permanency option for the child. The order  
 1359 terminating supervision by the department must set forth the  
 1360 powers of the custodian of the child and include the powers  
 1361 ordinarily granted to a guardian of the person of a minor unless  
 1362 otherwise specified. Upon the court's termination of supervision  
 1363 by the department, further judicial reviews are not required if

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1364 permanency has been established for the child.

1365 4. Determine whether the child has a strong attachment to  
 1366 the prospective permanent guardian and whether such guardian has  
 1367 a strong commitment to permanently caring for the child.

1368 Section 17. Subsection (5) of section 39.6011, Florida  
 1369 Statutes, is amended to read:

1370 39.6011 Case plan development.—

1371 (5) The case plan must describe:

1372 (a) The role of the foster parents or legal custodians when  
 1373 developing the services that are to be provided to the child,  
 1374 foster parents, or legal custodians;

1375 (b) The responsibility of the case manager to forward a  
 1376 relative's request to receive notification of all proceedings  
 1377 and hearings submitted pursuant to s. 39.301(15)(b) ~~or~~  
 1378 ~~39.301(14)(b)~~ to the attorney for the department;

1379 (c) The minimum number of face-to-face meetings to be held  
 1380 each month between the parents and the department's family  
 1381 services counselors to review the progress of the plan, to  
 1382 eliminate barriers to progress, and to resolve conflicts or  
 1383 disagreements; and

1384 (d) The parent's responsibility for financial support of  
 1385 the child, including, but not limited to, health insurance and  
 1386 child support. The case plan must list the costs associated with  
 1387 any services or treatment that the parent and child are expected  
 1388 to receive which are the financial responsibility of the parent.  
 1389 The determination of child support and other financial support  
 1390 shall be made independently of any determination of indigency  
 1391 under s. 39.013.

1392 Section 18. Paragraph (c) of subsection (1) of section

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1393 39.6012, Florida Statutes, is amended to read:

1394 39.6012 Case plan tasks; services.-

1395 (1) The services to be provided to the parent and the tasks  
1396 that must be completed are subject to the following:

1397 (c) If there is evidence of harm as defined in s.  
1398 39.01(38)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a  
1399 required task for the parent whose actions caused the harm that  
1400 the parent submit to a substance abuse disorder assessment or  
1401 evaluation and participate and comply with treatment and  
1402 services identified in the assessment or evaluation as being  
1403 necessary.

1404 Section 19. Paragraph (g) of subsection (1) of section  
1405 39.701, Florida Statutes, is amended to read:

1406 39.701 Judicial review.-

1407 (1) GENERAL PROVISIONS.-

1408 (g) The attorney for the department shall notify a relative  
1409 who submits a request for notification of all proceedings and  
1410 hearings pursuant to s. 39.301(15)(b) ~~s. 39.301(14)(b)~~. The  
1411 notice shall include the date, time, and location of the next  
1412 judicial review hearing.

1413 Section 20. Section 39.823, Florida Statutes, is amended to  
1414 read:

1415 39.823 Guardian advocates for drug dependent newborns.-The  
1416 Legislature finds that increasing numbers of drug dependent  
1417 children are born in this state. Because of the parents'  
1418 continued dependence upon drugs, the parents may temporarily  
1419 leave their child with a relative or other adult or may have  
1420 agreed to voluntary family services under s. 39.301(15) ~~s.~~  
1421 ~~39.301(14)~~. The relative or other adult may be left with a child

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1422 who is likely to require medical treatment but for whom they are  
1423 unable to obtain medical treatment. The purpose of this section  
1424 is to provide an expeditious method for such relatives or other  
1425 responsible adults to obtain a court order which allows them to  
1426 provide consent for medical treatment and otherwise advocate for  
1427 the needs of the child and to provide court review of such  
1428 authorization.

1429 Section 21. Subsection (4) of section 322.09, Florida  
1430 Statutes, is amended to read:

1431 322.09 Application of minors; responsibility for negligence  
1432 or misconduct of minor.-

1433 (4) Notwithstanding subsections (1) and (2), if a caregiver  
1434 of a minor who is under the age of 18 years and is in out-of-  
1435 home care as defined in s. 39.01(58) ~~s. 39.01(55)~~, an authorized  
1436 representative of a residential group home at which such a minor  
1437 resides, the caseworker at the agency at which the state has  
1438 placed the minor, or a guardian ad litem specifically authorized  
1439 by the minor's caregiver to sign for a learner's driver license  
1440 signs the minor's application for a learner's driver license,  
1441 that caregiver, group home representative, caseworker, or  
1442 guardian ad litem does not assume any obligation or become  
1443 liable for any damages caused by the negligence or willful  
1444 misconduct of the minor by reason of having signed the  
1445 application. Before signing the application, the caseworker,  
1446 authorized group home representative, or guardian ad litem shall  
1447 notify the caregiver or other responsible party of his or her  
1448 intent to sign and verify the application.

1449 Section 22. Paragraph (b) of subsection (5) of section  
1450 393.065, Florida Statutes, is amended to read:

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1451 393.065 Application and eligibility determination.—

1452 (5) The agency shall assign and provide priority to clients

1453 waiting for waiver services in the following order:

1454 (b) Category 2, which includes individuals on the waiting

1455 list who are:

1456 1. From the child welfare system with an open case in the

1457 Department of Children and Families' statewide automated child

1458 welfare information system and who are either:

1459 a. Transitioning out of the child welfare system at the

1460 finalization of an adoption, a reunification with family

1461 members, a permanent placement with a relative, or a

1462 guardianship with a nonrelative; or

1463 b. At least 18 years but not yet 22 years of age and who

1464 need both waiver services and extended foster care services; or

1465 2. At least 18 years but not yet 22 years of age and who

1466 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the

1467 extended foster care system.

1468

1469 For individuals who are at least 18 years but not yet 22 years

1470 of age and who are eligible under sub-subparagraph 1.b., the

1471 agency shall provide waiver services, including residential

1472 habilitation, and the community-based care lead agency shall

1473 fund room and board at the rate established in s. 409.145(4) and

1474 provide case management and related services as defined in s.

1475 409.986(3)(h) ~~s. 409.986(3)(c)~~. Individuals may receive both

1476 waiver services and services under s. 39.6251. Services may not

1477 duplicate services available through the Medicaid state plan.

1478

1479 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a

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1480 waiting list of clients placed in the order of the date that the

1481 client is determined eligible for waiver services.

1482 Section 23. Paragraph (p) of subsection (4) of section

1483 394.495, Florida Statutes, is amended to read:

1484 394.495 Child and adolescent mental health system of care;

1485 programs and services.—

1486 (4) The array of services may include, but is not limited

1487 to:

1488 (p) Trauma-informed services for children who have suffered

1489 sexual exploitation as defined in s. 39.01(81)(g) ~~s.~~

1490 ~~39.01(77)(g)~~.

1491 Section 24. Paragraph (a) of subsection (1) of section

1492 394.674, Florida Statutes, is amended to read:

1493 394.674 Eligibility for publicly funded substance abuse and

1494 mental health services; fee collection requirements.—

1495 (1) To be eligible to receive substance abuse and mental

1496 health services funded by the department, an individual must be

1497 a member of at least one of the department's priority

1498 populations approved by the Legislature. The priority

1499 populations include:

1500 (a) For adult mental health services:

1501 1. Adults who have severe and persistent mental illness, as

1502 designated by the department using criteria that include

1503 severity of diagnosis, duration of the mental illness, ability

1504 to independently perform activities of daily living, and receipt

1505 of disability income for a psychiatric condition. Included

1506 within this group are:

1507 a. Older adults in crisis.

1508 b. Older adults who are at risk of being placed in a more



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1509 restrictive environment because of their mental illness.

1510 c. Persons deemed incompetent to proceed or not guilty by

1511 reason of insanity under chapter 916.

1512 d. Other persons involved in the criminal justice system.

1513 e. Persons diagnosed as having co-occurring mental illness

1514 and substance abuse disorders.

1515 2. Persons who are experiencing an acute mental or

1516 emotional crisis as defined in s. 394.67(18) ~~s. 394.67(17)~~.

1517 Section 25. Subsection (2) of section 409.987, Florida

1518 Statutes, is amended to read:

1519 409.987 Lead agency procurement.—

1520 (2) The department shall produce a schedule for the

1521 procurement of community-based care lead agencies and provide

1522 the schedule to the community alliances established pursuant to

1523 s. 20.19(6) ~~s. 20.19(5)~~ and post the schedule on the

1524 department's website.

1525 Section 26. Paragraph (c) of subsection (1) of section

1526 409.988, Florida Statutes, is amended to read:

1527 409.988 Lead agency duties; general provisions.—

1528 (1) DUTIES.—A lead agency:

1529 (c) Shall follow the financial guidelines developed by the

1530 department and provide for a regular independent auditing of its

1531 financial activities. Such financial information shall be

1532 provided to the community alliance established under s. 20.19(6)

1533 ~~s. 20.19(5)~~.

1534 Section 27. Section 627.746, Florida Statutes, is amended

1535 to read:

1536 627.746 Coverage for minors who have a learner's driver

1537 license; additional premium prohibited.—An insurer that issues

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1538 an insurance policy on a private passenger motor vehicle to a

1539 named insured who is a caregiver of a minor who is under the age

1540 of 18 years and is in out-of-home care as defined in s.

1541 39.01(58) ~~s. 39.01(55)~~ may not charge an additional premium for

1542 coverage of the minor while the minor is operating the insured

1543 vehicle, for the period of time that the minor has a learner's

1544 driver license, until such time as the minor obtains a driver

1545 license.

1546 Section 28. Paragraph (c) of subsection (1) of section

1547 934.255, Florida Statutes, is amended to read:

1548 934.255 Subpoenas in investigations of sexual offenses.—

1549 (1) As used in this section, the term:

1550 (c) "Sexual abuse of a child" means a criminal offense

1551 based on any conduct described in s. 39.01(81) ~~s. 39.01(77)~~.

1552 Section 29. Subsection (5) of section 960.065, Florida

1553 Statutes, is amended to read:

1554 960.065 Eligibility for awards.—

1555 (5) A person is not ineligible for an award pursuant to

1556 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that

1557 person is a victim of sexual exploitation of a child as defined

1558 in s. 39.01(81)(g) ~~s. 39.01(77)(g)~~.

1559 Section 30. For the purpose of incorporating the amendment

1560 made by this act to section 39.201, Florida Statutes, in a

1561 reference thereto, subsection (1) of section 39.302, Florida

1562 Statutes, is reenacted and amended to read:

1563 39.302 Protective investigations of institutional child

1564 abuse, abandonment, or neglect.—

1565 (1) The department shall conduct a child protective

1566 investigation of each report of institutional child abuse,

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1567 abandonment, or neglect. Upon receipt of a report that alleges  
 1568 that an employee or agent of the department, or any other entity  
 1569 or person covered by s. 39.01(40) or (57) ~~s. 39.01(37) or (54)~~,  
 1570 acting in an official capacity, has committed an act of child  
 1571 abuse, abandonment, or neglect, the department shall initiate a  
 1572 child protective investigation within the timeframes ~~timeframe~~  
 1573 established under s. 39.201(5) and notify the appropriate state  
 1574 attorney, law enforcement agency, and licensing agency, which  
 1575 shall immediately conduct a joint investigation, unless  
 1576 independent investigations are more feasible. When conducting  
 1577 investigations or having face-to-face interviews with the child,  
 1578 investigation visits shall be unannounced unless it is  
 1579 determined by the department or its agent that unannounced  
 1580 visits threaten the safety of the child. If a facility is exempt  
 1581 from licensing, the department shall inform the owner or  
 1582 operator of the facility of the report. Each agency conducting a  
 1583 joint investigation is entitled to full access to the  
 1584 information gathered by the department in the course of the  
 1585 investigation. A protective investigation must include an  
 1586 interview with the child's parent or legal guardian. The  
 1587 department shall make a full written report to the state  
 1588 attorney within 3 working days after making the oral report. A  
 1589 criminal investigation shall be coordinated, whenever possible,  
 1590 with the child protective investigation of the department. Any  
 1591 interested person who has information regarding the offenses  
 1592 described in this subsection may forward a statement to the  
 1593 state attorney as to whether prosecution is warranted and  
 1594 appropriate. Within 15 days after the completion of the  
 1595 investigation, the state attorney shall report the findings to

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1596 the department and shall include in the report a determination  
 1597 of whether or not prosecution is justified and appropriate in  
 1598 view of the circumstances of the specific case.  
 1599 Section 31. For the purpose of incorporating the amendment  
 1600 made by this act to section 409.997, Florida Statutes, in a  
 1601 reference thereto, paragraph (b) of subsection (1) of section  
 1602 409.988, Florida Statutes, is reenacted to read:  
 1603 409.988 Lead agency duties; general provisions.—  
 1604 (1) DUTIES.—A lead agency:  
 1605 (b) Shall provide accurate and timely information necessary  
 1606 for oversight by the department pursuant to the child welfare  
 1607 results-oriented accountability system required by s. 409.997.  
 1608 Section 32. For the purpose of incorporating the amendment  
 1609 made by this act to section 409.997, Florida Statutes, in a  
 1610 reference thereto, paragraph (a) of subsection (1) of section  
 1611 409.996, Florida Statutes, is reenacted to read:  
 1612 409.996 Duties of the Department of Children and Families.—  
 1613 The department shall contract for the delivery, administration,  
 1614 or management of care for children in the child protection and  
 1615 child welfare system. In doing so, the department retains  
 1616 responsibility for the quality of contracted services and  
 1617 programs and shall ensure that services are delivered in  
 1618 accordance with applicable federal and state statutes and  
 1619 regulations.  
 1620 (1) The department shall enter into contracts with lead  
 1621 agencies for the performance of the duties by the lead agencies  
 1622 pursuant to s. 409.988. At a minimum, the contracts must:  
 1623 (a) Provide for the services needed to accomplish the  
 1624 duties established in s. 409.988 and provide information to the

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1625 department which is necessary to meet the requirements for a  
1626 quality assurance program pursuant to subsection (18) and the  
1627 child welfare results-oriented accountability system pursuant to  
1628 s. 409.997.

1629 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

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I respectfully request that **Senate Bill 1326**, relating to **DCF Accountability**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Wilton Simpson", written over a horizontal line.

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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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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.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Favorable</u>
3.	<u>Gross</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**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<sup>1</sup> was enacted to implement Amendment 9 to the Florida Constitution,<sup>2</sup> 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

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<sup>1</sup> See ch. 2019-14, Laws of Fla.

<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup>

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.<sup>5</sup> It is a complete defense to a violation if an underage person falsely misrepresented his or her age, the underage

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<sup>3</sup> Section 877.112(1)(a), F.S.

<sup>4</sup> Section 877.112(1)(b), F.S.

<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup>

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.<sup>8</sup>

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.<sup>9</sup>

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.<sup>10</sup>

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.

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<sup>6</sup> Section 877.112(5), F.S.

<sup>7</sup> Sections 877.112(6) and (7), F.S.

<sup>8</sup> Section 877.112(8), F.S.

<sup>9</sup> Section 877.112(9), F.S.

<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup>

## 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 Vaping, product use-Associated Lung Injury, 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.<sup>13</sup> 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.<sup>14</sup>

## 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.<sup>15</sup> 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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<sup>11</sup> 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).

<sup>12</sup> 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).

<sup>13</sup> 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).

<sup>14</sup> See “Florida reports second vaping death” (December 11, 2019), available at <http://www.orlandosentinel.com/news/os-ne-florida-reports-second-vaping-death-20191211-dvz3tehxebvbkavhe2jdiepe-story.html> (last visited Feb. 6, 2020).

<sup>15</sup> 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.<sup>16</sup> (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.<sup>17</sup> 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.

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<sup>16</sup> 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.

<sup>17</sup> 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/tclcf-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.<sup>18</sup>

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.<sup>19</sup> 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

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<sup>18</sup> See s. 569.003(1)(c), F.S.

<sup>19</sup> 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.<sup>20</sup>

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.”<sup>21</sup>

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.

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<sup>20</sup> See s. 569.003(1)(c), F.S.

<sup>21</sup> 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.<sup>22</sup> 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:

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<sup>22</sup> *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	.	
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	.	
	.	

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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

11 (a) Any product containing, made of, or derived from  
12 tobacco or nicotine that is intended for human consumption or is  
13 likely to be consumed, whether inhaled, absorbed, or ingested by  
14 any other means, including, but not limited to, a cigarette, a  
15 cigar, pipe tobacco, chewing tobacco, snuff, or snus;

16 (b) Any vapor-generating electronic device and any  
17 substances that may be aerosolized or vaporized by such device,  
18 whether or not the substance contains nicotine; or

19 (c) Any component, part, or accessory of a product  
20 described in paragraph (a) or paragraph (b), whether or not any  
21 of these contain tobacco or nicotine, including, but not limited  
22 to, filters, rolling papers, blunt or hemp wraps, and pipes.

23  
24 The term does not include drugs, devices, or combination  
25 products authorized for sale by the United States Food and Drug  
26 Administration, as those terms are defined in the Federal Food,  
27 Drug, and Cosmetic Act.

28 (8) "Vapor-generating electronic device" means any product



By the Committee on Innovation, Industry, and Technology; and  
Senator Simmons

580-03012-20

20201394c1

1 A bill to be entitled  
2 An act relating to fees; amending s. 569.002, F.S.;  
3 expanding the definition of the term "tobacco  
4 products" to include vapor-generating electronic  
5 devices and components, parts, and accessories of such  
6 devices and to include substances that may be  
7 aerosolized or vaporized by such devices; defining the  
8 term "vapor-generating electronic device"; providing a  
9 contingent effective date.

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

11 Section 1. Subsection (6) of section 569.002, Florida  
12 Statutes, as amended by SB 810 or similar legislation, 2020  
13 Regular Session, is amended, and subsection (7) is added to that  
14 section, to read:  
15 569.002 Definitions.—As used in this chapter, the term:  
16 (6) "Tobacco products" includes:  
17 (a) Any product containing, made of, or derived from  
18 tobacco or nicotine that is intended for human consumption or is  
19 likely to be consumed, whether inhaled, absorbed, or ingested by  
20 any other means, including, but not limited to, a cigarette, a  
21 cigar, pipe tobacco, chewing tobacco, snuff, or snus;  
22 (b) Any vapor-generating electronic device and any  
23 substances that may be aerosolized or vaporized by such device,  
24 whether or not the substance contains nicotine; or  
25 (c) Any component, part, or accessory of a product  
26 described in paragraph (a) or paragraph (b), whether or not any  
27 of these contain tobacco or nicotine, including, but not limited  
28  
29

Page 1 of 2

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

580-03012-20

20201394c1

30 to, filters, rolling papers, blunt or hemp wraps, and pipes.  
31  
32 The term does not include drugs, devices, or combination  
33 products authorized for sale by the United States Food and Drug  
34 Administration, as those terms are defined in the Federal Food,  
35 Drug, and Cosmetic Act.  
36 (7) "Vapor-generating electronic device" means any product  
37 that employs an electronic, chemical, or mechanical means  
38 capable of producing vapor or aerosol from a nicotine product or  
39 any other substance, including, but not limited to, an  
40 electronic cigarette, electronic cigar, electronic cigarillo,  
41 electronic pipe, or other similar device or product; any  
42 replacement cartridge for such device; and any other container  
43 of nicotine in a solution or other substance form intended to be  
44 used with or within an electronic cigarette, an electronic  
45 cigar, an electronic cigarillo, an electronic pipe, a vape pen,  
46 an electronic hookah, or other similar device or product. The  
47 term includes any component, part, or accessory of the device  
48 and also includes any substance intended to be aerosolized or  
49 vaporized during the use of the device, whether or not the  
50 substance contains nicotine. The term does not include drugs,  
51 devices, or combination products authorized for sale by the  
52 United States Food and Drug Administration, as those terms are  
53 defined in the Federal Food, Drug, and Cosmetic Act.  
54 Section 2. This act shall take effect on the same date that  
55 SB 810 or similar legislation takes effect, if such legislation  
56 is adopted in the same legislative session or an extension  
57 thereof and becomes a law.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Rob Bradley, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** 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.

A handwritten signature in black ink, appearing to read "David Simmons".

---

Senator David Simmons  
Florida Senate, District 9

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

Phone \_\_\_\_\_

Street

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.

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

Phone 636-445-2522

Street

Tega

City

SC

State

29708

Zip

Email becton@vopentechology.com

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.

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

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

81041394  
Bill Number (if applicable)

Topic Vaping Ban

Amendment Barcode (if applicable)

Name Beth Chandler

Job Title \_\_\_\_\_

Address 10066 Spring Sink Rd  
Street

Phone 567-1070

Tallahassee  
City State Zip

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.

**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

Phone 205-968-2266

*Street*

Hoover

AL

35216

Email ashley.lyerly@lung.org

*City*

*State*

*Zip*

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)

Topic Vaping Band

Amendment Barcode (if applicable)

Name Lillie Meinhardt

Job Title Store Manager

Address 712 River Plantation Rd

Phone \_\_\_\_\_

Street

Croftonville

State

FL

Zip

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 Fees Tobacco Products

Amendment Barcode (if applicable)

Name Scott R. Goodlin

Job Title Grassroots Manager

Address 1718 Tail pines Drive

Phone 404 855 0588

Largo  
City

FL  
State

33771  
Zip

Email starm.goodlin@Cancer.org

Speaking:  For  Against  Information

Waive Speaking:  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  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.)

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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.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Davis/Betta</u>	<u>Betta</u>	<u>AEG</u>	<b>Recommend: Favorable</b>
3.	<u>Davis/Betta</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

---

## 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.<sup>1</sup>

### **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.<sup>2</sup> The Governor and Cabinet serve as the Board of Trustees of the IITF.<sup>3</sup> 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.<sup>4</sup> 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 surplus.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup>

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.<sup>8</sup> The revenue received from any sales of such land are deposited in the IITF with no specified use.<sup>9</sup>

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<sup>1</sup> Section 215.196, F.S.

<sup>2</sup> See Internal Improvement Fund, <http://digitalcollections.fiu.edu/iif/about.htm> (last visited January 30, 2020); see also s. 253.01, F.S.

<sup>3</sup> FLA CONST Art. IV, s. 1(4)(f)

<sup>4</sup> Section 253.03(1), F.S.

<sup>5</sup> Section 253.0341(1), F.S.

<sup>6</sup> Section 253.0341(7), F.S.

<sup>7</sup> Department of Management Services, Agency Analysis of 2020 Senate Bill 1714, Jan 29, 2020 (on file with Senate Committee on Government Oversight and Accountability).

<sup>8</sup> Section 253.0341(8), F.S.

<sup>9</sup> 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<sup>10</sup> 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.

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<sup>10</sup> 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.

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

---

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:

Page 1 of 5

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

5-01404A-20

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(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

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59 ~~agencies, state universities, and Florida College System~~  
 60 ~~institutions, with priority consideration given to state~~  
 61 ~~universities and Florida College System institutions. Within 60~~  
 62 ~~days after the offer for lease of a surplus building or parcel,~~  
 63 ~~a state university or Florida College System institution that~~  
 64 ~~requests the lease must submit a plan for review and approval by~~  
 65 ~~the Board of Trustees of the Internal Improvement Trust Fund~~  
 66 ~~regarding the intended use, including future use, of the~~  
 67 ~~building or parcel of land before approval of a lease. Within 60~~  
 68 days after the offer for lease of a surplus building or parcel,  
 69 a state agency that requests the lease of such facility or  
 70 parcel must submit a plan for review and approval by the board  
 71 of trustees regarding the intended use. The state agency plan  
 72 must, at a minimum, include the proposed use of the facility or  
 73 parcel, the estimated cost of renovation, a capital improvement  
 74 plan for the building, evidence that the building or parcel  
 75 meets an existing need that cannot otherwise be met, and other  
 76 criteria developed by rule by the board of trustees. The board  
 77 or its designee shall compare the estimated value of the  
 78 building or parcel to any submitted business plan to determine  
 79 if the lease or sale is in the best interest of the state. The  
 80 board of trustees shall adopt rules pursuant to chapter 120 for  
 81 the implementation of this section.

82 (8) The sale price of lands determined to be surplus  
 83 pursuant to this section and s. 253.82 shall be determined by  
 84 the Division of State Lands, which shall consider an appraisal  
 85 of the property or, if the estimated value of the land is  
 86 \$500,000 or less, a comparable sales analysis or a broker's  
 87 opinion of value. The value must be based on the highest and

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88 best use of the property, considering all applicable  
 89 developmental rights, to ensure the maximum benefit and use to  
 90 the state as provided in s. 253.03(7) (a). The division may  
 91 require a second appraisal. The individual or entity that  
 92 requests to purchase the surplus parcel shall pay all costs  
 93 associated with determining the property's value, if any. As  
 94 used in this subsection, the term "highest and best use" means  
 95 the reasonable, probable, and legal use of vacant land or an  
 96 improved property which is physically possible, appropriately  
 97 supported, financially feasible, and results in the highest  
 98 value.

99 (a) A written valuation of land determined to be surplus  
 100 pursuant to this section and s. 253.82, and related documents  
 101 used to form the valuation or which pertain to the valuation,  
 102 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
 103 I of the State Constitution.

104 1. The exemption expires 2 weeks before the contract or  
 105 agreement regarding the purchase, exchange, or disposal of the  
 106 surplus land is first considered for approval by the board of  
 107 trustees.

108 2. Before expiration of the exemption, the Division of  
 109 State Lands may disclose confidential and exempt appraisals,  
 110 valuations, or valuation information regarding surplus land:

111 a. During negotiations for the sale or exchange of the  
 112 land;

113 b. During the marketing effort or bidding process  
 114 associated with the sale, disposal, or exchange of the land to  
 115 facilitate closure of such effort or process;

116 c. When the passage of time has made the conclusions of

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117 value invalid; or

118 d. When negotiations or marketing efforts concerning the  
119 land are concluded.

120 (b) A unit of government that acquires title to lands  
121 pursuant to this section for less than appraised value may not  
122 sell or transfer title to all or any portion of the lands to any  
123 private owner for 10 years. A unit of government seeking to  
124 transfer or sell lands pursuant to this paragraph must first  
125 allow the board of trustees to reacquire such lands for the  
126 price at which the board of trustees sold such lands.

127 (14) (a) Funds received from the sale of surplus  
128 nonconservation lands or lands that were acquired by gift, by  
129 donation, or for no consideration shall be deposited into the  
130 Internal Improvement Trust Fund.

131 (b) Notwithstanding paragraph (a), funds received from the  
132 sale of surplus state-owned office buildings, as defined in s.  
133 255.248, and the nonconservation lands associated with such  
134 buildings shall be deposited into the Architects Incidental  
135 Trust Fund, as established pursuant to s. 215.196.

136 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

Phone 850 922-6535

Tallahassee FL 32399  
City State Zip

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.

**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
	<u>Delia</u>	<u>Hendon</u>		<b>CF Submitted as Committee Bill</b>
1.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<b>Recommend: Fav/CS</b>
2.	<u>Sneed</u>	<u>Kynoch</u>	<u>AP</u>	<b>Pre-meeting</b>

**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,<sup>1</sup> with complex causes such as mental health and substance use disorders, painful losses, exposure to violence, and social isolation.<sup>2</sup> Suicide rates increased in nearly every state from 1999 through 2016.<sup>3</sup> In 2017, suicide was the second leading cause of death nationwide for persons aged 10–14, 15–19, and 20–24.<sup>4</sup> 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).<sup>5</sup>

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.<sup>6</sup> The factors that contribute to any particular suicide are diverse; therefore, efforts related to suicide prevention must incorporate multiple approaches.<sup>7</sup>

In Florida, the rate of suicides increased by 10.6 percent from 1996 to 2016.<sup>8</sup> 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.<sup>9</sup> Suicide was the eighth leading cause of death in Florida, and the suicide rate per 100,000 population was 15.5.<sup>10</sup> This is a slight increase

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<sup>1</sup> Heron M. *Deaths: Leading Causes for 2017*. National Vital Statistics Reports; Vol. 68 No 6. Hyattsville, MD: National Center for Health Statistics. 2019.

<sup>2</sup> 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

<sup>3</sup> 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).

<sup>4</sup> *Supra* note 1.

<sup>5</sup> 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).

<sup>6</sup> *Supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> *Supra* note 2.

<sup>9</sup> 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](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).

<sup>10</sup> *Id.*

from 2016 (15.4).<sup>11</sup> 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.<sup>12</sup>

### **Statewide Office for Suicide Prevention**

The Statewide Office of Suicide Prevention (Statewide Office), which is housed within the Department of Children and Families (DCF),<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup>

### **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.<sup>16</sup>

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.<sup>17</sup>

### **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.<sup>18</sup> Many first responders previously served in the military, which likely exposed them to trauma prior to

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Chapter 2011-51, Laws of Fla.; Section 14.2019, F.S.

<sup>14</sup> Section 14.2019, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 14.20195, F.S.

<sup>17</sup> *Id.*

<sup>18</sup> 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](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.<sup>19</sup> 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.<sup>20</sup>

### **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.<sup>21</sup> 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.<sup>22</sup>

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.<sup>23</sup>

### **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

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<sup>19</sup> *Id.* at 9.

<sup>20</sup> *Id.*

<sup>21</sup> 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).

<sup>22</sup> Public Law 115-113 (115<sup>th</sup> Congress).

<sup>23</sup> 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.<sup>24</sup> Psychosis may be caused by medications or alcohol or drug abuse but can also be a symptom of mental illness or a physical condition.<sup>25</sup>

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.<sup>26</sup> 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.<sup>27</sup> Risk factors that may contribute to the development of psychosis include stressors such as physical illness, substance use, and psychological or physical trauma.<sup>28</sup>

Early psychosis, known as “first-episode psychosis,” is the most important time to connect an individual with treatment.<sup>29</sup> Studies have shown that it is common for a person to experience psychotic symptoms for more than a year before ever receiving treatment.<sup>30</sup> 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.<sup>31</sup>

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.<sup>32</sup>

## **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.<sup>33</sup> Additionally, 12 percent of Gulf War Veterans and 15

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<sup>24</sup> 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).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> 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).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Supra* note 18.

<sup>31</sup> *Supra* note 21.

<sup>32</sup> *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).

<sup>33</sup> National Center for PTSD, *How Common is PTSD? PTSD and the Military*, available at [https://www.ptsd.va.gov/understand/common/common\\_veterans.asp](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.<sup>34</sup> 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.<sup>35</sup>

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.<sup>36</sup> During that time span, veteran suicides increased from 5,787 in 2005 to 6,139 in 2017.<sup>37</sup> The annual number of veteran suicide deaths has exceeded 6,000 every year since 2008,<sup>38</sup> and the annual number of veteran suicide deaths increased by 129 from 2016 to 2017.<sup>39</sup>

## **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<sup>40</sup> (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<sup>41</sup> (MHPAEA), which generally applies to large group health plans.<sup>42</sup> 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.<sup>43</sup> 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.<sup>44</sup>

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<sup>34</sup> *Id.*

<sup>35</sup> 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](http://www.rand.org/pubs/monographs/2008/RAND_MG720.pdf) (last visited November 6, 2019).

<sup>36</sup> 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](https://www.mentalhealth.va.gov/docs/data-sheets/2019/2019_National_Veteran_Suicide_Prevention_Annual_Report_508.pdf) (last visited November 6, 2019).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Pub. L. No. 104-204.

<sup>41</sup> Pub. L. No. 110-343.

<sup>42</sup> See final regulations available at <http://www.gpo.gov/fdsys/pkg/FR-2013-11-13/pdf/2013-27086.pdf> (last viewed November 7, 2019).

<sup>43</sup> 45 CFR ss. 146 and 160.

<sup>44</sup> 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<sup>45</sup> (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,<sup>46</sup> 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.<sup>47</sup>

### **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.<sup>48</sup> 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.<sup>49</sup> 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.<sup>50</sup>

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.

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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.

<sup>45</sup> Pub. L. No. 111-148, as amended by Pub. L. No. 111-152.

<sup>46</sup> 45 CFR s. 156.115.

<sup>47</sup> See 45 CFR 147.150 and 156.115 (78 FR 12834, Feb. 25, 2013).

<sup>48</sup> Section 20.121(3)(a), F.S.

<sup>49</sup> Section 641.21(1), F.S.

<sup>50</sup> 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 health 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,<sup>51</sup> require a licensee to submit sworn affidavit or statement attesting that he or she has completed the required CE hours,<sup>52</sup> 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.<sup>53</sup>
- 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.<sup>54</sup>
- 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.<sup>55</sup>

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.<sup>56</sup>

### **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:<sup>57</sup>

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<sup>51</sup> See s. 457.107, F.S.

<sup>52</sup> See ss. 458.347(4)(e), 466.0135(6), 466.014, and 466.032(5), F.S.

<sup>53</sup> Section 768.13(2)(a), F.S.

<sup>54</sup> Section 768.13(2)(d), F.S.

<sup>55</sup> Section 768.13(3), F.S.

<sup>56</sup> Schiff, Damien, *Samaritans: Good, Bad and Ugly: A Comparative Law Analysis*, 11 Roger Williams Univ. L. Rev. 95 (2005).

<sup>57</sup> 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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11           (10) "Coordinated specialty care program" means an  
12 evidence-based program for individuals who are experiencing the  
13 early indications of serious mental illness, especially symptoms  
14 of a first psychotic episode, and which includes, but is not  
15 limited to, intensive case management, individual or group  
16 therapy, supported employment, family education and supports,  
17 and the provision of appropriate psychotropic medication as  
18 needed.

19           ~~(29)~~ ~~(28)~~ "Mental illness" means an impairment of the mental  
20 or emotional processes that exercise conscious control of one's  
21 actions or of the ability to perceive or understand reality,  
22 which impairment substantially interferes with the person's  
23 ability to meet the ordinary demands of living. For the purposes  
24 of this part, the term does not include a developmental  
25 disability as defined in chapter 393, intoxication, or  
26 conditions manifested only by dementia, traumatic brain injury,  
27 antisocial behavior, or substance abuse.

28           Section 5. Section 394.4573, Florida Statutes, is amended  
29 to read:

30           394.4573 Coordinated system of care; annual assessment;  
31 essential elements; measures of performance; system improvement  
32 grants; reports.—On or before December 1 of each year, the  
33 department shall submit to the Governor, the President of the  
34 Senate, and the Speaker of the House of Representatives an  
35 assessment of the behavioral health services in this state. The  
36 assessment shall consider, at a minimum, the extent to which  
37 designated receiving systems function as no-wrong-door models,  
38 the availability of treatment and recovery services that use  
39 recovery-oriented and peer-involved approaches, the availability



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40 of less-restrictive services, and the use of evidence-informed  
41 practices. The assessment must also consider the availability of  
42 and access to coordinated specialty care programs and identify  
43 any gaps in the availability of and access to such programs in  
44 the state. The department's assessment shall consider, at a  
45 minimum, the needs assessments conducted by the managing  
46 entities pursuant to s. 394.9082(5). Beginning in 2017, the  
47 department shall compile and include in the report all plans  
48 submitted by managing entities pursuant to s. 394.9082(8) and  
49 the department's evaluation of each plan.

50 (1) As used in this section:

51 (a) "Care coordination" means the implementation of  
52 deliberate and planned organizational relationships and service  
53 procedures that improve the effectiveness and efficiency of the  
54 behavioral health system by engaging in purposeful interactions  
55 with individuals who are not yet effectively connected with  
56 services to ensure service linkage. Examples of care  
57 coordination activities include development of referral  
58 agreements, shared protocols, and information exchange  
59 procedures. The purpose of care coordination is to enhance the  
60 delivery of treatment services and recovery supports and to  
61 improve outcomes among priority populations.

62 (b) "Case management" means those direct services provided  
63 to a client in order to assess his or her needs, plan or arrange  
64 services, coordinate service providers, link the service system  
65 to a client, monitor service delivery, and evaluate patient  
66 outcomes to ensure the client is receiving the appropriate  
67 services.

68 (c) "Coordinated system of care" means the full array of



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69 behavioral and related services in a region or community offered  
70 by all service providers, whether participating under contract  
71 with the managing entity or by another method of community  
72 partnership or mutual agreement.

73 (d) "No-wrong-door model" means a model for the delivery of  
74 acute care services to persons who have mental health or  
75 substance use disorders, or both, which optimizes access to  
76 care, regardless of the entry point to the behavioral health  
77 care system.

78 (2) The essential elements of a coordinated system of care  
79 include:

80 (a) Community interventions, such as prevention, primary  
81 care for behavioral health needs, therapeutic and supportive  
82 services, crisis response services, and diversion programs.

83 (b) A designated receiving system that consists of one or  
84 more facilities serving a defined geographic area and  
85 responsible for assessment and evaluation, both voluntary and  
86 involuntary, and treatment or triage of patients who have a  
87 mental health or substance use disorder, or co-occurring  
88 disorders.

89 1. A county or several counties shall plan the designated  
90 receiving system using a process that includes the managing  
91 entity and is open to participation by individuals with  
92 behavioral health needs and their families, service providers,  
93 law enforcement agencies, and other parties. The county or  
94 counties, in collaboration with the managing entity, shall  
95 document the designated receiving system through written  
96 memoranda of agreement or other binding arrangements. The county  
97 or counties and the managing entity shall complete the plan and



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98 implement the designated receiving system by July 1, 2017, and  
99 the county or counties and the managing entity shall review and  
100 update, as necessary, the designated receiving system at least  
101 once every 3 years.

102 2. To the extent permitted by available resources, the  
103 designated receiving system shall function as a no-wrong-door  
104 model. The designated receiving system may be organized in any  
105 manner which functions as a no-wrong-door model that responds to  
106 individual needs and integrates services among various  
107 providers. Such models include, but are not limited to:

108 a. A central receiving system that consists of a designated  
109 central receiving facility that serves as a single entry point  
110 for persons with mental health or substance use disorders, or  
111 co-occurring disorders. The central receiving facility shall be  
112 capable of assessment, evaluation, and triage or treatment or  
113 stabilization of persons with mental health or substance use  
114 disorders, or co-occurring disorders.

115 b. A coordinated receiving system that consists of multiple  
116 entry points that are linked by shared data systems, formal  
117 referral agreements, and cooperative arrangements for care  
118 coordination and case management. Each entry point shall be a  
119 designated receiving facility and shall, within existing  
120 resources, provide or arrange for necessary services following  
121 an initial assessment and evaluation.

122 c. A tiered receiving system that consists of multiple  
123 entry points, some of which offer only specialized or limited  
124 services. Each service provider shall be classified according to  
125 its capabilities as either a designated receiving facility or  
126 another type of service provider, such as a triage center, a



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127 licensed detoxification facility, or an access center. All  
128 participating service providers shall, within existing  
129 resources, be linked by methods to share data, formal referral  
130 agreements, and cooperative arrangements for care coordination  
131 and case management.

132  
133 An accurate inventory of the participating service providers  
134 which specifies the capabilities and limitations of each  
135 provider and its ability to accept patients under the designated  
136 receiving system agreements and the transportation plan  
137 developed pursuant to this section shall be maintained and made  
138 available at all times to all first responders in the service  
139 area.

140 (c) Transportation in accordance with a plan developed  
141 under s. 394.462.

142 (d) Crisis services, including mobile response teams,  
143 crisis stabilization units, addiction receiving facilities, and  
144 detoxification facilities.

145 (e) Case management. Each case manager or person directly  
146 supervising a case manager who provides Medicaid-funded targeted  
147 case management services shall hold a valid certification from a  
148 department-approved credentialing entity as defined in s.  
149 397.311(10) by July 1, 2017, and, thereafter, within 6 months  
150 after hire.

151 (f) Care coordination that involves coordination with other  
152 local systems and entities, public and private, which are  
153 involved with the individual, such as primary care, child  
154 welfare, behavioral health care, and criminal and juvenile  
155 justice organizations.



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156 (g) Outpatient services.

157 (h) Residential services.

158 (i) Hospital inpatient care.

159 (j) Aftercare and other postdischarge services.

160 (k) Medication-assisted treatment and medication  
161 management.

162 (l) Recovery support, including, but not limited to,  
163 support for competitive employment, educational attainment,  
164 independent living skills development, family support and  
165 education, wellness management and self-care, and assistance in  
166 obtaining housing that meets the individual's needs. Such  
167 housing may include mental health residential treatment  
168 facilities, limited mental health assisted living facilities,  
169 adult family care homes, and supportive housing. Housing  
170 provided using state funds must provide a safe and decent  
171 environment free from abuse and neglect.

172 (m) Care plans shall assign specific responsibility for  
173 initial and ongoing evaluation of the supervision and support  
174 needs of the individual and the identification of housing that  
175 meets such needs. For purposes of this paragraph, the term  
176 "supervision" means oversight of and assistance with compliance  
177 with the clinical aspects of an individual's care plan.

178 (n) Coordinated specialty care programs.

179 (3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific  
180 appropriation by the Legislature, the department may award  
181 system improvement grants to managing entities based on a  
182 detailed plan to enhance services in accordance with the no-  
183 wrong-door model as defined in subsection (1) and to address  
184 specific needs identified in the assessment prepared by the



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185 department pursuant to this section. Such a grant must be  
186 awarded through a performance-based contract that links payments  
187 to the documented and measurable achievement of system  
188 improvements.

189 Section 6. Subsection (3) of section 394.463, Florida  
190 Statutes, is amended to read:

191 394.463 Involuntary examination.—

192 (3) NOTICE OF RELEASE.—Notice of the release shall be given  
193 to the patient's guardian or representative, to any person who  
194 executed a certificate admitting the patient to the receiving  
195 facility, and to any court which ordered the patient's  
196 evaluation. If the patient is a minor, information regarding the  
197 availability of a local mobile response service, suicide  
198 prevention resources, social supports, and local self-help  
199 groups must also be provided to the patient's guardian or  
200 representative along with the notice of the release.

201 Section 7. Paragraph (b) of subsection (1) of section  
202 394.658, Florida Statutes, is amended to read:

203 394.658 Criminal Justice, Mental Health, and Substance  
204 Abuse Reinvestment Grant Program requirements.—

205 (1) The Criminal Justice, Mental Health, and Substance  
206 Abuse Statewide Grant Review Committee, in collaboration with  
207 the Department of Children and Families, the Department of  
208 Corrections, the Department of Juvenile Justice, the Department  
209 of Elderly Affairs, and the Office of the State Courts  
210 Administrator, shall establish criteria to be used to review  
211 submitted applications and to select the county that will be  
212 awarded a 1-year planning grant or a 3-year implementation or  
213 expansion grant. A planning, implementation, or expansion grant



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214 may not be awarded unless the application of the county meets  
215 the established criteria.

216 (b) The application criteria for a 3-year implementation or  
217 expansion grant shall require information from a county that  
218 demonstrates its completion of a well-established collaboration  
219 plan that includes public-private partnership models and the  
220 application of evidence-based practices. The implementation or  
221 expansion grants may support programs and diversion initiatives  
222 that include, but need not be limited to:

- 223 1. Mental health courts;
- 224 2. Diversion programs;
- 225 3. Alternative prosecution and sentencing programs;
- 226 4. Crisis intervention teams;
- 227 5. Treatment accountability services;
- 228 6. Specialized training for criminal justice, juvenile  
229 justice, and treatment services professionals;
- 230 7. Service delivery of collateral services such as housing,  
231 transitional housing, and supported employment; ~~and~~
- 232 8. Reentry services to create or expand mental health and  
233 substance abuse services and supports for affected persons; and
- 234 9. Coordinated specialty care programs.

235 Section 8. Present subsections (3) through (24) of section  
236 394.67, Florida Statutes, are redesignated as subsections (4)  
237 through (25), respectively, a new subsection (3) is added to  
238 that section, and present subsection (3) is amended, to read:

239 394.67 Definitions.—As used in this part, the term:

240 (3) "Coordinated specialty care program" means an evidence-  
241 based program for individuals who are experiencing the early  
242 indications of serious mental illness, especially symptoms of a





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243 first psychotic episode, and which includes, but is not limited  
244 to, intensive case management, individual or group therapy,  
245 supported employment, family education and supports, and the  
246 provision of appropriate psychotropic medication as needed.

247 (4)~~(3)~~ "Crisis services" means short-term evaluation,  
248 stabilization, and brief intervention services provided to a  
249 person who is experiencing an acute mental or emotional crisis,  
250 as defined in subsection (18) ~~(17)~~, or an acute substance abuse  
251 crisis, as defined in subsection (19) ~~(18)~~, to prevent further  
252 deterioration of the person's mental health. Crisis services are  
253 provided in settings such as a crisis stabilization unit, an  
254 inpatient unit, a short-term residential treatment program, a  
255 detoxification facility, or an addictions receiving facility; at  
256 the site of the crisis by a mobile crisis response team; or at a  
257 hospital on an outpatient basis.

258 Section 9. Paragraph (a) of subsection (26) of section  
259 397.311, Florida Statutes, is amended to read:

260 397.311 Definitions.—As used in this chapter, except part  
261 VIII, the term:

262 (26) Licensed service components include a comprehensive  
263 continuum of accessible and quality substance abuse prevention,  
264 intervention, and clinical treatment services, including the  
265 following services:

266 (a) "Clinical treatment" means a professionally directed,  
267 deliberate, and planned regimen of services and interventions  
268 that are designed to reduce or eliminate the misuse of drugs and  
269 alcohol and promote a healthy, drug-free lifestyle. As defined  
270 by rule, "clinical treatment services" include, but are not  
271 limited to, the following licensable service components:



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272           1. "Addictions receiving facility" is a secure, acute care  
273 facility that provides, at a minimum, detoxification and  
274 stabilization services; is operated 24 hours per day, 7 days per  
275 week; and is designated by the department to serve individuals  
276 found to be substance use impaired as described in s. 397.675  
277 who meet the placement criteria for this component.

278           2. "Day or night treatment" is a service provided in a  
279 nonresidential environment, with a structured schedule of  
280 treatment and rehabilitative services.

281           3. "Day or night treatment with community housing" means a  
282 program intended for individuals who can benefit from living  
283 independently in peer community housing while participating in  
284 treatment services for a minimum of 5 hours a day for a minimum  
285 of 25 hours per week.

286           4. "Detoxification" is a service involving subacute care  
287 that is provided on an inpatient or an outpatient basis to  
288 assist individuals to withdraw from the physiological and  
289 psychological effects of substance abuse and who meet the  
290 placement criteria for this component.

291           5. "Intensive inpatient treatment" includes a planned  
292 regimen of evaluation, observation, medical monitoring, and  
293 clinical protocols delivered through an interdisciplinary team  
294 approach provided 24 hours per day, 7 days per week, in a highly  
295 structured, live-in environment.

296           6. "Intensive outpatient treatment" is a service that  
297 provides individual or group counseling in a more structured  
298 environment, is of higher intensity and duration than outpatient  
299 treatment, and is provided to individuals who meet the placement  
300 criteria for this component.



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301           7. "Medication-assisted treatment for opioid use disorders  
302 ~~opiate addiction~~" is a service that uses methadone or other  
303 medication as authorized by state and federal law, in  
304 combination with medical, rehabilitative, supportive, and  
305 counseling services in the treatment of individuals who are  
306 dependent on opioid drugs.

307           8. "Outpatient treatment" is a service that provides  
308 individual, group, or family counseling by appointment during  
309 scheduled operating hours for individuals who meet the placement  
310 criteria for this component.

311           9. "Residential treatment" is a service provided in a  
312 structured live-in environment within a nonhospital setting on a  
313 24-hours-per-day, 7-days-per-week basis, and is intended for  
314 individuals who meet the placement criteria for this component.

315           Section 10. Subsection (16) of section 397.321, Florida  
316 Statutes, is amended to read:

317           397.321 Duties of the department.—The department shall:

318           ~~(16) Develop a certification process by rule for community~~  
319 ~~substance abuse prevention coalitions.~~

320           Section 11. Section 397.4012, Florida Statutes, is amended  
321 to read:

322           397.4012 Exemptions from licensure.—The following are  
323 exempt from the licensing provisions of this chapter:

324           (1) A hospital or hospital-based component licensed under  
325 chapter 395.

326           (2) A nursing home facility as defined in s. 400.021.

327           (3) A substance abuse education program established  
328 pursuant to s. 1003.42.

329           (4) A facility or institution operated by the Federal



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330 Government.

331 (5) A physician or physician assistant licensed under  
332 chapter 458 or chapter 459.

333 (6) A psychologist licensed under chapter 490.

334 (7) A social worker, marriage and family therapist, or  
335 mental health counselor licensed under chapter 491.

336 (8) A legally cognizable church or nonprofit religious  
337 organization or denomination providing substance abuse services,  
338 including prevention services, which are solely religious,  
339 spiritual, or ecclesiastical in nature. A church or nonprofit  
340 religious organization or denomination providing any of the  
341 licensed service components itemized under s. 397.311(26) is not  
342 exempt from substance abuse licensure but retains its exemption  
343 with respect to all services which are solely religious,  
344 spiritual, or ecclesiastical in nature.

345 (9) Facilities licensed under chapter 393 which, in  
346 addition to providing services to persons with developmental  
347 disabilities, also provide services to persons developmentally  
348 at risk as a consequence of exposure to alcohol or other legal  
349 or illegal drugs while in utero.

350 (10) DUI education and screening services provided pursuant  
351 to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons  
352 or entities providing treatment services must be licensed under  
353 this chapter unless exempted from licensing as provided in this  
354 section.

355 (11) A facility licensed under s. 394.875 as a crisis  
356 stabilization unit.

357

358 The exemptions from licensure in subsections (3), (4), (8), (9),



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359 and (10) ~~this section~~ do not apply to any service provider that  
360 receives an appropriation, grant, or contract from the state to  
361 operate as a service provider as defined in this chapter or to  
362 any substance abuse program regulated under ~~pursuant to~~ s.  
363 397.4014. Furthermore, this chapter may not be construed to  
364 limit the practice of a physician or physician assistant  
365 licensed under chapter 458 or chapter 459, a psychologist  
366 licensed under chapter 490, a psychotherapist licensed under  
367 chapter 491, or an advanced practice registered nurse licensed  
368 under part I of chapter 464, who provides substance abuse  
369 treatment, so long as the physician, physician assistant,  
370 psychologist, psychotherapist, or advanced practice registered  
371 nurse does not represent to the public that he or she is a  
372 licensed service provider and does not provide services to  
373 individuals under ~~pursuant to~~ part V of this chapter. Failure to  
374 comply with any requirement necessary to maintain an exempt  
375 status under this section is a misdemeanor of the first degree,  
376 punishable as provided in s. 775.082 or s. 775.083.

377 Section 12. Section 456.0342, Florida Statutes, is created  
378 to read:

379 456.0342 Required instruction on suicide prevention.—The  
380 requirements of this section apply to each person licensed or  
381 certified under chapter 458, chapter 459, or part I of chapter  
382 464.

383 (1) By January 1, 2022, each licensed or certified  
384 practitioner shall complete a board-approved 2-hour continuing  
385 education course on suicide prevention. The course must address  
386 suicide risk assessment, treatment, and management.

387 (2) Each licensing board that requires a licensee or



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388 certificateholder to complete a course pursuant to this section  
389 must include the hours required for completion in the total  
390 hours of continuing education required by law for such  
391 profession.

392 Section 13. Section 786.1516, Florida Statutes, is created  
393 to read:

394 786.1516 Immunity for providing assistance in a suicide  
395 emergency.—

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

397 (a) "Emergency care" means assistance or advice offered to  
398 avoid, mitigate, or attempt to mitigate the effects of a suicide  
399 emergency.

400 (b) "Suicide emergency" means an occurrence that reasonably  
401 indicates an individual is at risk of dying or attempting to die  
402 by suicide.

403 (2) A person who provides emergency care at or near the  
404 scene of a suicide emergency, gratuitously and in good faith, is  
405 not liable for any civil damages or penalties as a result of any  
406 act or omission by the person providing the emergency care  
407 unless the person is grossly negligent or caused the suicide  
408 emergency.

409 Section 14. Subsection (14) of section 916.106, Florida  
410 Statutes, is amended to read:

411 916.106 Definitions.—For the purposes of this chapter, the  
412 term:

413 (14) "Mental illness" means an impairment of the emotional  
414 processes that exercise conscious control of one's actions, or  
415 of the ability to perceive or understand reality, which  
416 impairment substantially interferes with the defendant's ability



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417 to meet the ordinary demands of living. For the purposes of this  
418 chapter, the term does not apply to defendants who have only an  
419 intellectual disability or autism or a defendant with traumatic  
420 brain injury or dementia who lacks a co-occurring mental  
421 illness, and does not include intoxication or conditions  
422 manifested only by antisocial behavior or substance abuse  
423 impairment.

424 Section 15. Subsection (2) of section 916.13, Florida  
425 Statutes, is amended to read:

426 916.13 Involuntary commitment of defendant adjudicated  
427 incompetent.-

428 (2) A defendant who has been charged with a felony, ~~and who~~  
429 has been adjudicated incompetent to proceed due to mental  
430 illness, and ~~who~~ meets the criteria for involuntary commitment  
431 under this chapter, may be committed to the department, and the  
432 department shall retain and treat the defendant. Within 2  
433 business days after receipt of a commitment order and other  
434 required documents as stipulated in rule, the department must  
435 request from the jail any and all medical information pertaining  
436 to the defendant. Within 3 business days after receipt of such a  
437 request, the jail shall provide such information to the  
438 department.

439 (a) Within 6 months after the date of admission and at the  
440 end of any period of extended commitment, or at any time the  
441 administrator or his or her designee determines that the  
442 defendant has regained competency to proceed or no longer meets  
443 the criteria for continued commitment, the administrator or  
444 designee shall file a report with the court pursuant to the  
445 applicable Florida Rules of Criminal Procedure.



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446 (b) A competency hearing must ~~shall~~ be held within 30 days  
447 after the court receives notification that the defendant is  
448 competent to proceed or no longer meets the criteria for  
449 continued commitment. The defendant must be transported to the  
450 committing court's jurisdiction for the hearing. If the  
451 defendant is receiving psychotropic medication at a mental  
452 health facility at the time he or she is discharged and  
453 transferred to the jail, the administering of such medication  
454 must continue unless the jail physician documents the need to  
455 change or discontinue it. The jail and department physicians  
456 shall collaborate to ensure that medication changes do not  
457 adversely affect the defendant's mental health status or his or  
458 her ability to continue with court proceedings; however, the  
459 final authority regarding the administering of medication to an  
460 inmate in jail rests with the jail physician.

461 Section 16. Subsections (3) and (5) of section 916.15,  
462 Florida Statutes, are amended to read:

463 916.15 Involuntary commitment of defendant adjudicated not  
464 guilty by reason of insanity.—

465 (3) Every defendant acquitted of criminal charges by reason  
466 of insanity and found to meet the criteria for involuntary  
467 commitment may be committed and treated in accordance with ~~the~~  
468 ~~provisions of~~ this section and the applicable Florida Rules of  
469 Criminal Procedure. The department shall admit a defendant so  
470 adjudicated to an appropriate facility or program for treatment  
471 and shall retain and treat such defendant. No later than 6  
472 months after the date of admission, prior to the end of any  
473 period of extended commitment, or at any time that the  
474 administrator or his or her designee determines ~~shall have~~





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475 ~~determined~~ that the defendant no longer meets the criteria for  
476 continued commitment placement, the administrator or designee  
477 shall file a report with the court pursuant to the applicable  
478 Florida Rules of Criminal Procedure. Within 2 business days  
479 after receipt of a commitment order and other required documents  
480 as stipulated in rule, the department must request from the jail  
481 any and all medical information pertaining to the defendant.  
482 Within 3 business days after receipt of such a request, the jail  
483 shall provide such information to the department.

484 (5) The commitment hearing shall be held within 30 days  
485 after the court receives notification that the defendant no  
486 longer meets the criteria for continued commitment. The  
487 defendant must be transported to the committing court's  
488 jurisdiction for the hearing. If the defendant is receiving  
489 psychotropic medication at a mental health facility at the time  
490 he or she is discharged and transferred to the jail, the  
491 administering of such medication must continue unless the jail  
492 physician documents the need to change or discontinue it. The  
493 jail and department physicians shall collaborate to ensure that  
494 medication changes do not adversely affect the defendant's  
495 mental health status or his or her ability to continue with  
496 court proceedings; however, the final authority regarding the  
497 administering of medication to an inmate in jail rests with the  
498 jail physician.

499 Section 17. Present subsection (28) of section 1002.33,  
500 Florida Statutes, is redesignated as subsection (29), and a new  
501 subsection (28) is added to that section, to read:

502 1002.33 Charter schools.—

503 (28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH



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504 SUICIDE AWARENESS AND PREVENTION.—

505 (a) By October 1, 2020, every charter school must:

506 1. Incorporate 2 hours of training offered pursuant to s.  
507 1012.583. The training must be included in the existing  
508 continuing education or inservice training requirements for  
509 instructional personnel and may not add to the total hours  
510 currently required by the department. Every charter school must  
511 require all instructional personnel to participate.

512 2. Have at least two school-based staff members certified  
513 or otherwise deemed competent in the use of a suicide screening  
514 instrument approved under s. 1012.583(1) and have a policy to  
515 use such suicide risk screening instrument to evaluate a  
516 student's suicide risk before requesting the initiation of, or  
517 initiating, an involuntary examination due to concerns about  
518 that student's suicide risk.

519 (b) Every charter school must report its compliance with  
520 this subsection to the department.

521 Section 18. Subsections (2) and (3) of section 1012.583,  
522 Florida Statutes, are amended to read:

523 1012.583 Continuing education and inservice training for  
524 youth suicide awareness and prevention.—

525 (2) By October 1, 2020, every public school must ~~A school~~  
526 ~~shall be considered a "Suicide Prevention Certified School" if~~  
527 ~~it:~~

528 (a) Incorporate ~~Incorporates~~ 2 hours of training offered  
529 pursuant to this section. The training must be included in the  
530 existing continuing education or inservice training requirements  
531 for instructional personnel and may not add to the total hours  
532 currently required by the department. Every public school ~~A~~



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533 ~~school that chooses to participate in the training~~ must require  
534 all instructional personnel to participate.

535 (b) Have ~~Has~~ at least two school-based staff members  
536 certified or otherwise deemed competent in the use of a suicide  
537 screening instrument approved under subsection (1) and have ~~has~~  
538 a policy to use such suicide risk screening instrument to  
539 evaluate a student's suicide risk before requesting the  
540 initiation of, or initiating, an involuntary examination due to  
541 concerns about that student's suicide risk.

542 (3) Every public school ~~A school that meets the criteria in~~  
543 ~~subsection (2)~~ must report its compliance with this section to  
544 the department. ~~The department shall keep an updated record of~~  
545 ~~all Suicide Prevention Certified Schools and shall post the list~~  
546 ~~of these schools on the department's website. Each school shall~~  
547 ~~also post on its own website whether it is a Suicide Prevention~~  
548 ~~Certified School, and each school district shall post on its~~  
549 ~~district website a list of the Suicide Prevention Certified~~  
550 ~~Schools in that district.~~

551 Section 19. Paragraph (a) of subsection (3) of section  
552 39.407, Florida Statutes, is amended to read:

553 39.407 Medical, psychiatric, and psychological examination  
554 and treatment of child; physical, mental, or substance abuse  
555 examination of person with or requesting child custody.—

556 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.  
557 or paragraph (e), before the department provides psychotropic  
558 medications to a child in its custody, the prescribing physician  
559 or a psychiatric nurse, as defined in s. 394.455, shall attempt  
560 to obtain express and informed consent, as defined in s.  
561 394.455(16) ~~s. 394.455(15)~~ and as described in s. 394.459(3) (a),



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562 from the child's parent or legal guardian. The department must  
563 take steps necessary to facilitate the inclusion of the parent  
564 in the child's consultation with the physician or psychiatric  
565 nurse, as defined in s. 394.455. However, if the parental rights  
566 of the parent have been terminated, the parent's location or  
567 identity is unknown or cannot reasonably be ascertained, or the  
568 parent declines to give express and informed consent, the  
569 department may, after consultation with the prescribing  
570 physician or psychiatric nurse, as defined in s. 394.455, seek  
571 court authorization to provide the psychotropic medications to  
572 the child. Unless parental rights have been terminated and if it  
573 is possible to do so, the department shall continue to involve  
574 the parent in the decisionmaking process regarding the provision  
575 of psychotropic medications. If, at any time, a parent whose  
576 parental rights have not been terminated provides express and  
577 informed consent to the provision of a psychotropic medication,  
578 the requirements of this section that the department seek court  
579 authorization do not apply to that medication until such time as  
580 the parent no longer consents.

581 2. Any time the department seeks a medical evaluation to  
582 determine the need to initiate or continue a psychotropic  
583 medication for a child, the department must provide to the  
584 evaluating physician or psychiatric nurse, as defined in s.  
585 394.455, all pertinent medical information known to the  
586 department concerning that child.

587 Section 20. Subsection (3) of section 394.495, Florida  
588 Statutes, are amended to read:

589 394.495 Child and adolescent mental health system of care;  
590 programs and services.-



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591 (3) Assessments must be performed by:  
592 (a) A professional as defined in s. 394.455(5), (7), (33)  
593 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

594 (b) A professional licensed under chapter 491; or  
595 (c) A person who is under the direct supervision of a  
596 qualified professional as defined in s. 394.455(5), (7), (33)  
597 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under  
598 chapter 491.

599 Section 21. Subsection (5) of section 394.496, Florida  
600 Statutes, is amended to read:

601 394.496 Service planning.—

602 (5) A professional as defined in s. 394.455(5), (7), (33)  
603 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under  
604 chapter 491 must be included among those persons developing the  
605 services plan.

606 Section 22. Paragraph (a) of subsection (1) of section  
607 394.674, Florida Statutes, is amended to read:

608 394.674 Eligibility for publicly funded substance abuse and  
609 mental health services; fee collection requirements.—

610 (1) To be eligible to receive substance abuse and mental  
611 health services funded by the department, an individual must be  
612 a member of at least one of the department's priority  
613 populations approved by the Legislature. The priority  
614 populations include:

615 (a) For adult mental health services:

616 1. Adults who have severe and persistent mental illness, as  
617 designated by the department using criteria that include  
618 severity of diagnosis, duration of the mental illness, ability  
619 to independently perform activities of daily living, and receipt



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620 of disability income for a psychiatric condition. Included  
621 within this group are:

622 a. Older adults in crisis.

623 b. Older adults who are at risk of being placed in a more  
624 restrictive environment because of their mental illness.

625 c. Persons deemed incompetent to proceed or not guilty by  
626 reason of insanity under chapter 916.

627 d. Other persons involved in the criminal justice system.

628 e. Persons diagnosed as having co-occurring mental illness  
629 and substance abuse disorders.

630 2. Persons who are experiencing an acute mental or  
631 emotional crisis as defined in s. 394.67(18) ~~s. 394.67(17)~~.

632 Section 23. Subsection (3) of section 394.74, Florida  
633 Statutes, is amended to read:

634 394.74 Contracts for provision of local substance abuse and  
635 mental health programs.—

636 (3) Contracts shall include, but are not limited to:

637 (a) A provision that, within the limits of available  
638 resources, substance abuse and mental health crisis services, as  
639 defined in s. 394.67(4) ~~s. 394.67(3)~~, shall be available to any  
640 individual residing or employed within the service area,  
641 regardless of ability to pay for such services, current or past  
642 health condition, or any other factor;

643 (b) A provision that such services be available with  
644 priority of attention being given to individuals who exhibit  
645 symptoms of chronic or acute substance abuse or mental illness  
646 and who are unable to pay the cost of receiving such services;

647 (c) A provision that every reasonable effort to collect  
648 appropriate reimbursement for the cost of providing substance



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649 abuse and mental health services to persons able to pay for  
650 services, including first-party payments and third-party  
651 payments, shall be made by facilities providing services  
652 pursuant to this act;

653 (d) A program description and line-item operating budget by  
654 program service component for substance abuse and mental health  
655 services, provided the entire proposed operating budget for the  
656 service provider will be displayed;

657 (e) A provision that client demographic, service, and  
658 outcome information required for the department's Mental Health  
659 and Substance Abuse Data System be submitted to the department  
660 by a date specified in the contract. The department may not pay  
661 the provider unless the required information has been submitted  
662 by the specified date; and

663 (f) A requirement that the contractor must conform to  
664 department rules and the priorities established thereunder.

665 Section 24. Subsection (6) of section 394.9085, Florida  
666 Statutes, is amended to read:

667 394.9085 Behavioral provider liability.—

668 (6) For purposes of this section, the terms "detoxification  
669 services," "addictions receiving facility," and "receiving  
670 facility" have the same meanings as those provided in ss.  
671 397.311(26)(a)3. ~~ss. 397.311(26)(a)4.~~, 397.311(26)(a)1., and  
672 394.455(40) ~~394.455(39)~~,

673  
674 ===== T I T L E A M E N D M E N T =====

675 And the title is amended as follows:

676 Delete lines 2 - 75

677 and insert:



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678 An act relating to mental health and substance abuse;  
679 amending s. 14.2019, F.S.; providing additional duties  
680 for the Statewide Office for Suicide Prevention;  
681 establishing the First Responders Suicide Deterrence  
682 Task Force adjunct to the office; specifying the task  
683 force's purpose; providing for the composition and the  
684 duties of the task force; requiring the task force to  
685 submit reports to the Governor and the Legislature on  
686 an annual basis; providing for future repeal; amending  
687 s. 14.20195, F.S.; providing additional duties for the  
688 Suicide Prevention Coordinating Council; revising the  
689 composition of the council; amending s. 334.044, F.S.;  
690 requiring the Department of Transportation to work  
691 with the office in developing a plan relating to  
692 evidence-based suicide deterrents in certain  
693 locations; amending s. 394.455, F.S.; defining the  
694 term "coordinated specialty care program"; revising  
695 the definition of the term "mental illness"; amending  
696 s. 394.4573, F.S.; revising the requirements for the  
697 annual state behavioral health services assessment;  
698 revising the essential elements of a coordinated  
699 system of care; amending s. 394.463, F.S.; requiring  
700 that certain information be provided to the guardian  
701 or representative of a minor patient released from  
702 involuntary examination; amending s. 394.658, F.S.;  
703 revising the application criteria for the Criminal  
704 Justice, Mental Health, and Substance Abuse  
705 Reinvestment Grant Program to include support for  
706 coordinated specialty care programs; amending s.





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707 394.67, F.S.; defining the term "coordinated specialty  
708 care program"; amending s. 397.311, F.S.; redefining  
709 the term "medication-assisted treatment opiate  
710 addiction" as "medication-assisted treatment for  
711 opioid use disorders"; amending s. 397.321, F.S.;  
712 deleting a provision requiring the Department of  
713 Children and Families to develop a certification  
714 process by rule for community substance abuse  
715 prevention coalitions; amending s. 397.4012, F.S.;  
716 revising applicability for certain licensure  
717 exemptions; creating s. 456.0342, F.S.; providing  
718 applicability; requiring specified persons to complete  
719 certain suicide prevention education courses by a  
720 specified date; requiring certain boards to include  
721 the hours for such courses in the total hours of  
722 continuing education required for the profession;  
723 creating s. 786.1516, F.S.; defining the terms  
724 "emergency care" and "suicide emergency"; providing  
725 that persons providing certain emergency care are not  
726 liable for civil damages or penalties under certain  
727 circumstances; amending s. 916.106, F.S.; revising the  
728 definition of the term "mental illness"; amending ss.  
729 916.13 and 916.15, F.S.; requiring the department to  
730 request a defendant's medical information from a jail  
731 within a certain timeframe after receiving a  
732 commitment order and other required documentation;  
733 requiring the jail to provide such information within  
734 a certain timeframe; requiring the continued  
735 administration of psychotropic medication to a



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736 defendant if he or she is receiving such medication at  
737 a mental health facility at the time that he or she is  
738 discharged and transferred to the jail; providing an  
739 exception; requiring the jail and department  
740 physicians to collaborate on a defendant's medication  
741 changes for certain purposes; specifying that the jail  
742 physician has the final authority regarding the  
743 administering of medication to an inmate; amending ss.  
744 1002.33 and 1012.583, F.S.; requiring charter schools  
745 and public schools, respectively, to incorporate  
746 certain training on suicide prevention in continuing  
747 education and inservice training requirements;  
748 providing that such schools must require all  
749 instructional personnel to participate in the  
750 training; requiring such schools to have a specified  
751 minimum number of staff members who are certified or  
752 deemed competent in the use of suicide screening  
753 instruments; requiring such schools to have a policy  
754 for such instruments; requiring such schools to report  
755 certain compliance to the Department of Education;  
756 conforming provisions to changes made by the act;  
757 amending ss. 39.407, 394.495, 394.496, 394.674,  
758 394.74, 394.9085,



314786

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/27/2020	.	
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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

11 active Residential Level 5 license since January 1, 2012, and  
12 that houses patients within 500 feet of a licensed facility  
13 treating patients in compliance with this chapter, may maintain  
14 such license.

15  
16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18       Delete line 25

19 and insert:

20       involuntary examination; amending s. 397.401, F.S.;

21       authorizing certain service providers to maintain a

22       Residential Level 5 license; creating s. 456.0342,

23       F.S.;



401064

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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	.	
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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  
13  
14  
15  
16  
17

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

And the title is amended as follows:

Delete line 83

and insert:

specified date; providing an appropriation;  
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



576-03600-20

57 requirements; authorizing the commission to adopt  
58 rules; creating s. 786.1516, F.S.; defining the terms  
59 "emergency care" and "suicide emergency"; providing  
60 that persons providing certain emergency care are not  
61 liable for civil damages or penalties under certain  
62 circumstances; amending ss. 1002.33 and 1012.583,  
63 F.S.; requiring charter schools and public schools,  
64 respectively, to incorporate certain training on  
65 suicide prevention in continuing education and  
66 inservice training requirements; providing that such  
67 schools must require all instructional personnel to  
68 participate in the training; requiring such schools to  
69 have a specified minimum number of staff members who  
70 are certified or deemed competent in the use of  
71 suicide screening instruments; requiring such schools  
72 to have a policy for such instruments; requiring such  
73 schools to report certain compliance to the Department  
74 of Education; conforming provisions to changes made by  
75 the act; amending ss. 394.495, 394.496, 394.9085,  
76 409.972, 464.012, and 744.2007, F.S.; conforming  
77 cross-references; requiring the Office of Program  
78 Policy Analysis and Government Accountability to  
79 perform a review of certain programs and efforts  
80 relating to suicide prevention programs in other  
81 states and make certain recommendations; requiring the  
82 office to submit a report to the Legislature by a  
83 specified date; providing effective dates.

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



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86  
87 Section 1. Paragraphs (a) and (d) of subsection (2) of  
88 section 14.2019, Florida Statutes, are amended, paragraphs (e)  
89 and (f) are added to that subsection, and subsection (5) is  
90 added to that section, to read:  
91 14.2019 Statewide Office for Suicide Prevention.—  
92 (2) The statewide office shall, within available resources:  
93 (a) Develop a network of community-based programs to  
94 improve suicide prevention initiatives. The network shall  
95 identify and work to eliminate barriers to providing suicide  
96 prevention services to individuals who are at risk of suicide.  
97 The network shall consist of stakeholders advocating suicide  
98 prevention, including, but not limited to, not-for-profit  
99 suicide prevention organizations, faith-based suicide prevention  
100 organizations, law enforcement agencies, first responders to  
101 emergency calls, veterans, servicemembers, suicide prevention  
102 community coalitions, schools and universities, mental health  
103 agencies, substance abuse treatment agencies, health care  
104 providers, and school personnel.  
105 (d) Coordinate education and training curricula in suicide  
106 prevention efforts for law enforcement personnel, first  
107 responders to emergency calls, veterans, servicemembers, health  
108 care providers, school employees, and other persons who may have  
109 contact with persons at risk of suicide.  
110 (e) Act as a clearinghouse for information and resources  
111 related to suicide prevention by:  
112 1. Disseminating and sharing evidence-based best practices  
113 relating to suicide prevention;  
114 2. Collecting and analyzing data on trends in suicide and





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115 suicide attempts annually by county, age, gender, profession,  
116 and other demographics as designated by the statewide office.

117 (f) Advise the Department of Transportation on the  
118 implementation of evidence-based suicide deterrents in the  
119 design elements and features of infrastructure projects  
120 throughout the state.

121 (5) The First Responders Suicide Deterrence Task Force, a  
122 task force as defined in s. 20.03(8), is created adjunct to the  
123 Statewide Office for Suicide Prevention.

124 (a) The purpose of the task force is to make  
125 recommendations on how to reduce the incidence of suicide and  
126 attempted suicide among employed or retired first responders in  
127 this state.

128 (b) The task force is composed of a representative of the  
129 statewide office and a representative of each of the following  
130 first responder organizations, nominated by the organization and  
131 appointed by the Secretary of Children and Families:

- 132 1. The Florida Professional Firefighters.
- 133 2. The Florida Police Benevolent Association.
- 134 3. The Florida Fraternal Order of Police: State Lodge.
- 135 4. The Florida Sheriffs Association.
- 136 5. The Florida Police Chiefs Association.
- 137 6. The Florida Fire Chiefs' Association.

138 (c) The task force shall elect a chair from among its  
139 membership. Except as otherwise provided, the task force shall  
140 operate in a manner consistent with s. 20.052.

141 (d) The task force shall identify or make recommendations  
142 on developing training programs and materials that would better  
143 enable first responders to cope with personal life stressors and



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144 stress related to their profession and foster an organizational  
145 culture that:

146 1. Promotes mutual support and solidarity among active and  
147 retired first responders;

148 2. Trains agency supervisors and managers to identify  
149 suicidal risk among active and retired first responders;

150 3. Improves the use and awareness of existing resources  
151 among active and retired first responders; and

152 4. Educates active and retired first responders on suicide  
153 awareness and help-seeking.

154 (e) The task force shall identify state and federal public  
155 resources, funding and grants, first responder association  
156 resources, and private resources to implement identified  
157 training programs and materials.

158 (f) The task force shall report on its findings and  
159 recommendations for training programs and materials to deter  
160 suicide among active and retired first responders to the  
161 Governor, the President of the Senate, and the Speaker of the  
162 House of Representatives by each July 1, beginning in 2021, and  
163 through 2023.

164 (g) This subsection is repealed July 1, 2023.

165 Section 2. Paragraph (c) of subsection (1) and subsection  
166 (2) of section 14.20195, Florida Statutes, are amended, and  
167 paragraph (d) is added to subsection (1) of that section, to  
168 read:

169 14.20195 Suicide Prevention Coordinating Council; creation;  
170 membership; duties.—There is created within the Statewide Office  
171 for Suicide Prevention a Suicide Prevention Coordinating  
172 Council. The council shall develop strategies for preventing



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173 suicide.

174 (1) SCOPE OF ACTIVITY.—The Suicide Prevention Coordinating  
175 Council is a coordinating council as defined in s. 20.03 and  
176 shall:

177 (c) Make findings and recommendations regarding suicide  
178 prevention programs and activities, including, but not limited  
179 to, the implementation of evidence-based mental health awareness  
180 and assistance training programs and gatekeeper training in  
181 municipalities throughout the state. The council shall prepare  
182 an annual report and present it to the Governor, the President  
183 of the Senate, and the Speaker of the House of Representatives  
184 by January 1, each year. The annual report must describe the  
185 status of existing and planned initiatives identified in the  
186 statewide plan for suicide prevention and any recommendations  
187 arising therefrom.

188 (d) In conjunction with the Department of Children and  
189 Families, advise members of the public on the locations and  
190 availability of local behavioral health providers.

191 (2) MEMBERSHIP.—The Suicide Prevention Coordinating Council  
192 shall consist of 32 ~~27~~ voting members and one nonvoting member.

193 (a) Eighteen ~~Thirteen~~ members shall be appointed by the  
194 director of the Statewide Office for Suicide Prevention and  
195 shall represent the following organizations:

- 196 1. The Florida Association of School Psychologists.
- 197 2. The Florida Sheriffs Association.
- 198 3. The Suicide Prevention Action Network USA.
- 199 4. The Florida Initiative of Suicide Prevention.
- 200 5. The Florida Suicide Prevention Coalition.
- 201 6. The American Foundation of Suicide Prevention.



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202 7. The Florida School Board Association.

203 8. The National Council for Suicide Prevention.

204 9. The state chapter of AARP.

205 10. The Florida Behavioral Health Association ~~The Florida~~  
206 ~~Alcohol and Drug Abuse Association.~~

207 11. ~~The Florida Council for Community Mental Health.~~

208 ~~12.~~ The Florida Counseling Association.

209 ~~12.13.~~ NAMI Florida.

210 13. The Florida Medical Association.

211 14. The Florida Osteopathic Medical Association.

212 15. The Florida Psychiatric Society.

213 16. The Florida Psychological Association.

214 17. Veterans Florida.

215 18. The Florida Association of Managing Entities.

216 (b) The following state officials or their designees shall  
217 serve on the coordinating council:

218 1. The Secretary of Elderly Affairs.

219 2. The State Surgeon General.

220 3. The Commissioner of Education.

221 4. The Secretary of Health Care Administration.

222 5. The Secretary of Juvenile Justice.

223 6. The Secretary of Corrections.

224 7. The executive director of the Department of Law  
225 Enforcement.

226 8. The executive director of the Department of Veterans'  
227 Affairs.

228 9. The Secretary of Children and Families.

229 10. The executive director of the Department of Economic  
230 Opportunity.



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231 (c) The Governor shall appoint four additional members to  
232 the coordinating council. The appointees must have expertise  
233 that is critical to the prevention of suicide or represent an  
234 organization that is not already represented on the coordinating  
235 council.

236 (d) For the members appointed by the director of the  
237 Statewide Office for Suicide Prevention, seven members shall be  
238 appointed to initial terms of 3 years, and seven members shall  
239 be appointed to initial terms of 4 years. For the members  
240 appointed by the Governor, two members shall be appointed to  
241 initial terms of 4 years, and two members shall be appointed to  
242 initial terms of 3 years. Thereafter, such members shall be  
243 appointed to terms of 4 years. Any vacancy on the coordinating  
244 council shall be filled in the same manner as the original  
245 appointment, and any member who is appointed to fill a vacancy  
246 occurring because of death, resignation, or ineligibility for  
247 membership shall serve only for the unexpired term of the  
248 member's predecessor. A member is eligible for reappointment.

249 (e) The director of the Statewide Office for Suicide  
250 Prevention shall be a nonvoting member of the coordinating  
251 council and shall act as chair.

252 (f) Members of the coordinating council shall serve without  
253 compensation. Any member of the coordinating council who is a  
254 public employee is entitled to reimbursement for per diem and  
255 travel expenses as provided in s. 112.061.

256 Section 3. Present paragraph (c) of subsection (10) of  
257 section 334.044, Florida Statutes, is redesignated as paragraph  
258 (d), and a new paragraph (c) is added to that subsection, to  
259 read:



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260 334.044 Powers and duties of the department.—The department  
261 shall have the following general powers and duties:

262 (10)

263 (c) The department shall work with the Statewide Office for  
264 Suicide Prevention in developing a plan to consider the  
265 implementation of evidence-based suicide deterrents on all new  
266 infrastructure projects.

267 Section 4. Present subsections (17) through (48) of section  
268 394.455, Florida Statutes, are redesignated as subsections (18)  
269 through (49), respectively, and a new subsection (17) is added  
270 to that section, to read:

271 394.455 Definitions.—As used in this part, the term:

272 (17) "First episode psychosis program" means an evidence-  
273 based program for individuals between 14 and 30 years of age who  
274 are experiencing early indications of serious mental illness,  
275 especially a first episode of psychotic symptoms. The program  
276 includes, but is not limited to, intensive case management,  
277 individual or group therapy, supported employment, family  
278 education and supports, and appropriate psychotropic medication,  
279 as indicated.

280 Section 5. Section 394.4573, Florida Statutes, is amended  
281 to read:

282 394.4573 Coordinated system of care; annual assessment;  
283 essential elements; measures of performance; system improvement  
284 grants; reports.—On or before December 1 of each year, the  
285 department shall submit to the Governor, the President of the  
286 Senate, and the Speaker of the House of Representatives an  
287 assessment of the behavioral health services in this state. The  
288 assessment shall consider, at a minimum, the extent to which



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289 designated receiving systems function as no-wrong-door models,  
290 the availability of treatment and recovery services that use  
291 recovery-oriented and peer-involved approaches, the availability  
292 of less-restrictive services, and the use of evidence-informed  
293 practices. The assessment must also describe the availability of  
294 and access to first episode psychosis programs, and any gaps in  
295 the availability and access of such programs, in all areas of  
296 the state. The department's assessment shall consider, at a  
297 minimum, the needs assessments conducted by the managing  
298 entities pursuant to s. 394.9082(5). Beginning in 2017, the  
299 department shall compile and include in the report all plans  
300 submitted by managing entities pursuant to s. 394.9082(8) and  
301 the department's evaluation of each plan.

302 (1) As used in this section:

303 (a) "Care coordination" means the implementation of  
304 deliberate and planned organizational relationships and service  
305 procedures that improve the effectiveness and efficiency of the  
306 behavioral health system by engaging in purposeful interactions  
307 with individuals who are not yet effectively connected with  
308 services to ensure service linkage. Examples of care  
309 coordination activities include development of referral  
310 agreements, shared protocols, and information exchange  
311 procedures. The purpose of care coordination is to enhance the  
312 delivery of treatment services and recovery supports and to  
313 improve outcomes among priority populations.

314 (b) "Case management" means those direct services provided  
315 to a client in order to assess his or her needs, plan or arrange  
316 services, coordinate service providers, link the service system  
317 to a client, monitor service delivery, and evaluate patient



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318 outcomes to ensure the client is receiving the appropriate  
319 services.

320 (c) "Coordinated system of care" means the full array of  
321 behavioral and related services in a region or community offered  
322 by all service providers, whether participating under contract  
323 with the managing entity or by another method of community  
324 partnership or mutual agreement.

325 (d) "No-wrong-door model" means a model for the delivery of  
326 acute care services to persons who have mental health or  
327 substance use disorders, or both, which optimizes access to  
328 care, regardless of the entry point to the behavioral health  
329 care system.

330 (2) The essential elements of a coordinated system of care  
331 include:

332 (a) Community interventions, such as prevention, primary  
333 care for behavioral health needs, therapeutic and supportive  
334 services, crisis response services, and diversion programs.

335 (b) A designated receiving system that consists of one or  
336 more facilities serving a defined geographic area and  
337 responsible for assessment and evaluation, both voluntary and  
338 involuntary, and treatment or triage of patients who have a  
339 mental health or substance use disorder, or co-occurring  
340 disorders.

341 1. A county or several counties shall plan the designated  
342 receiving system using a process that includes the managing  
343 entity and is open to participation by individuals with  
344 behavioral health needs and their families, service providers,  
345 law enforcement agencies, and other parties. The county or  
346 counties, in collaboration with the managing entity, shall



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347 document the designated receiving system through written  
348 memoranda of agreement or other binding arrangements. The county  
349 or counties and the managing entity shall complete the plan and  
350 implement the designated receiving system by July 1, 2017, and  
351 the county or counties and the managing entity shall review and  
352 update, as necessary, the designated receiving system at least  
353 once every 3 years.

354 2. To the extent permitted by available resources, the  
355 designated receiving system shall function as a no-wrong-door  
356 model. The designated receiving system may be organized in any  
357 manner which functions as a no-wrong-door model that responds to  
358 individual needs and integrates services among various  
359 providers. Such models include, but are not limited to:

360 a. A central receiving system that consists of a designated  
361 central receiving facility that serves as a single entry point  
362 for persons with mental health or substance use disorders, or  
363 co-occurring disorders. The central receiving facility shall be  
364 capable of assessment, evaluation, and triage or treatment or  
365 stabilization of persons with mental health or substance use  
366 disorders, or co-occurring disorders.

367 b. A coordinated receiving system that consists of multiple  
368 entry points that are linked by shared data systems, formal  
369 referral agreements, and cooperative arrangements for care  
370 coordination and case management. Each entry point shall be a  
371 designated receiving facility and shall, within existing  
372 resources, provide or arrange for necessary services following  
373 an initial assessment and evaluation.

374 c. A tiered receiving system that consists of multiple  
375 entry points, some of which offer only specialized or limited



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376 services. Each service provider shall be classified according to  
377 its capabilities as either a designated receiving facility or  
378 another type of service provider, such as a triage center, a  
379 licensed detoxification facility, or an access center. All  
380 participating service providers shall, within existing  
381 resources, be linked by methods to share data, formal referral  
382 agreements, and cooperative arrangements for care coordination  
383 and case management.

384  
385 An accurate inventory of the participating service providers  
386 which specifies the capabilities and limitations of each  
387 provider and its ability to accept patients under the designated  
388 receiving system agreements and the transportation plan  
389 developed pursuant to this section shall be maintained and made  
390 available at all times to all first responders in the service  
391 area.

392 (c) Transportation in accordance with a plan developed  
393 under s. 394.462.

394 (d) Crisis services, including mobile response teams,  
395 crisis stabilization units, addiction receiving facilities, and  
396 detoxification facilities.

397 (e) Case management. Each case manager or person directly  
398 supervising a case manager who provides Medicaid-funded targeted  
399 case management services shall hold a valid certification from a  
400 department-approved credentialing entity as defined in s.  
401 397.311(10) by July 1, 2017, and, thereafter, within 6 months  
402 after hire.

403 (f) Care coordination that involves coordination with other  
404 local systems and entities, public and private, which are



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405 involved with the individual, such as primary care, child  
406 welfare, behavioral health care, and criminal and juvenile  
407 justice organizations.

408 (g) Outpatient services.

409 (h) Residential services.

410 (i) Hospital inpatient care.

411 (j) Aftercare and other postdischarge services.

412 (k) Medication-assisted treatment and medication  
413 management.

414 (l) Recovery support, including, but not limited to,  
415 support for competitive employment, educational attainment,  
416 independent living skills development, family support and  
417 education, wellness management and self-care, and assistance in  
418 obtaining housing that meets the individual's needs. Such  
419 housing may include mental health residential treatment  
420 facilities, limited mental health assisted living facilities,  
421 adult family care homes, and supportive housing. Housing  
422 provided using state funds must provide a safe and decent  
423 environment free from abuse and neglect.

424 (m) Care plans shall assign specific responsibility for  
425 initial and ongoing evaluation of the supervision and support  
426 needs of the individual and the identification of housing that  
427 meets such needs. For purposes of this paragraph, the term  
428 "supervision" means oversight of and assistance with compliance  
429 with the clinical aspects of an individual's care plan.

430 (n) First episode psychosis programs.

431 (3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific  
432 appropriation by the Legislature, the department may award  
433 system improvement grants to managing entities based on a



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434 detailed plan to enhance services in accordance with the no-  
435 wrong-door model as defined in subsection (1) and to address  
436 specific needs identified in the assessment prepared by the  
437 department pursuant to this section. Such a grant must be  
438 awarded through a performance-based contract that links payments  
439 to the documented and measurable achievement of system  
440 improvements.

441 Section 6. Subsection (3) of section 394.463, Florida  
442 Statutes, is amended to read:

443 394.463 Involuntary examination.—

444 (3) NOTICE OF RELEASE.—Notice of the release shall be given  
445 to the patient's guardian or representative, to any person who  
446 executed a certificate admitting the patient to the receiving  
447 facility, and to any court which ordered the patient's  
448 evaluation. If the patient is a minor, information regarding the  
449 availability of a local mobile response service, suicide  
450 prevention resources, social supports, and local self-help  
451 groups must also be provided to the patient's guardian or  
452 representative along with the notice of the release.

453 Section 7. Section 456.0342, Florida Statutes, is created  
454 to read:

455 456.0342 Required instruction on suicide prevention.—The  
456 requirements of this section apply to each person licensed or  
457 certified under chapter 458, chapter 459, or part I of chapter  
458 464.

459 (1) By January 1, 2022, each licensed or certified  
460 practitioner shall complete a board-approved 2-hour continuing  
461 education course on suicide prevention. The course must address  
462 suicide risk assessment, treatment, and management.



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463 (2) Each licensing board that requires a licensee or  
464 certificate holder to complete a course pursuant to this section  
465 must include the hours required for completion in the total  
466 hours of continuing education required by law for such  
467 profession.

468 Section 8. Effective January 1, 2021, paragraph (b) of  
469 subsection (8) of section 627.6675, Florida Statutes, is amended  
470 to read:

471 627.6675 Conversion on termination of eligibility.—Subject  
472 to all of the provisions of this section, a group policy  
473 delivered or issued for delivery in this state by an insurer or  
474 nonprofit health care services plan that provides, on an  
475 expense-incurred basis, hospital, surgical, or major medical  
476 expense insurance, or any combination of these coverages, shall  
477 provide that an employee or member whose insurance under the  
478 group policy has been terminated for any reason, including  
479 discontinuance of the group policy in its entirety or with  
480 respect to an insured class, and who has been continuously  
481 insured under the group policy, and under any group policy  
482 providing similar benefits that the terminated group policy  
483 replaced, for at least 3 months immediately prior to  
484 termination, shall be entitled to have issued to him or her by  
485 the insurer a policy or certificate of health insurance,  
486 referred to in this section as a “converted policy.” A group  
487 insurer may meet the requirements of this section by contracting  
488 with another insurer, authorized in this state, to issue an  
489 individual converted policy, which policy has been approved by  
490 the office under s. 627.410. An employee or member shall not be  
491 entitled to a converted policy if termination of his or her



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492 insurance under the group policy occurred because he or she  
493 failed to pay any required contribution, or because any  
494 discontinued group coverage was replaced by similar group  
495 coverage within 31 days after discontinuance.

496 (8) BENEFITS OFFERED.—

497 (b) An insurer shall offer the benefits specified in s.  
498 627.4193 ~~s. 627.668~~ ~~and the benefits specified in s. 627.669 if~~  
499 ~~those benefits were provided in the group plan.~~

500 Section 9. Effective January 1, 2021, section 627.668,  
501 Florida Statutes, is transferred, renumbered as section  
502 627.4193, Florida Statutes, and amended to read:

503 627.4193 ~~627.668~~ Requirements for mental health and  
504 substance use disorder benefits; reporting requirements ~~Optional~~  
505 ~~coverage for mental and nervous disorders required; exception.—~~

506 (1) Every insurer issuing, delivering, or issuing for  
507 delivery comprehensive major medical individual or, health  
508 ~~maintenance organization, and nonprofit hospital and medical~~  
509 ~~service plan corporation transacting group health insurance~~  
510 ~~policies or providing prepaid health care in this state~~ must  
511 comply with the federal Paul Wellstone and Pete Domenici Mental  
512 Health Parity and Addiction Equity Act of 2008 (MHPAEA) and any  
513 regulations relating to MHPAEA, including, but not limited to,  
514 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s.  
515 156.115(a) (3); and must provide ~~shall make available to the~~  
516 ~~policyholder as part of the application, for an appropriate~~  
517 ~~additional premium under a group hospital and medical expense-~~  
518 ~~incurred insurance policy, under a group prepaid health care~~  
519 ~~contract, and under a group hospital and medical service plan~~  
520 ~~contract,~~ the benefits or level of benefits specified in



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521 subsection (2) for the medically necessary care and treatment of  
522 mental and nervous disorders, including substance use disorders,  
523 as described defined in the Diagnostic and Statistical Manual of  
524 Mental Disorders, Fifth Edition, published by standard  
525 nomenclature of the American Psychiatric Association, subject to  
526 the right of the applicant for a group policy or contract to  
527 select any alternative benefits or level of benefits as may be  
528 offered by the insurer, health maintenance organization, or  
529 service plan corporation provided that, if alternate inpatient,  
530 outpatient, or partial hospitalization benefits are selected,  
531 such benefits shall not be less than the level of benefits  
532 required under paragraph (2) (a), paragraph (2) (b), or paragraph  
533 (2) (c), respectively.

534 (2) Under individual or group policies described in  
535 subsection (1) or contracts, inpatient hospital benefits,  
536 partial hospitalization benefits, and outpatient benefits  
537 consisting of durational limits, dollar amounts, deductibles,  
538 and coinsurance factors may not be provided in a manner that is  
539 more restrictive than medical and surgical benefits, and limits  
540 on the scope or duration of treatments which are not expressed  
541 numerically, also known as nonquantitative treatment  
542 limitations, must be provided in a manner that is comparable and  
543 may not be applied more stringently than limits on medical and  
544 surgical benefits, in accordance with 45 C.F.R. s.  
545 146.136(c) (2), (3), and (4) shall not be less favorable than for  
546 physical illness generally, except that:

547 (a) Inpatient benefits may be limited to not less than 30  
548 days per benefit year as defined in the policy or contract. If  
549 inpatient hospital benefits are provided beyond 30 days per



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550 ~~benefit year, the durational limits, dollar amounts, and~~  
551 ~~coinsurance factors thereto need not be the same as applicable~~  
552 ~~to physical illness generally.~~

553 (b) ~~Outpatient benefits may be limited to \$1,000 for~~  
554 ~~consultations with a licensed physician, a psychologist licensed~~  
555 ~~pursuant to chapter 490, a mental health counselor licensed~~  
556 ~~pursuant to chapter 491, a marriage and family therapist~~  
557 ~~licensed pursuant to chapter 491, and a clinical social worker~~  
558 ~~licensed pursuant to chapter 491. If benefits are provided~~  
559 ~~beyond the \$1,000 per benefit year, the durational limits,~~  
560 ~~dollar amounts, and coinsurance factors thereof need not be the~~  
561 ~~same as applicable to physical illness generally.~~

562 (c) ~~Partial hospitalization benefits shall be provided~~  
563 ~~under the direction of a licensed physician. For purposes of~~  
564 ~~this part, the term "partial hospitalization services" is~~  
565 ~~defined as those services offered by a program that is~~  
566 ~~accredited by an accrediting organization whose standards~~  
567 ~~incorporate comparable regulations required by this state.~~  
568 ~~Alcohol rehabilitation programs accredited by an accrediting~~  
569 ~~organization whose standards incorporate comparable regulations~~  
570 ~~required by this state or approved by the state and licensed~~  
571 ~~drug abuse rehabilitation programs shall also be qualified~~  
572 ~~providers under this section. In a given benefit year, if~~  
573 ~~partial hospitalization services or a combination of inpatient~~  
574 ~~and partial hospitalization are used, the total benefits paid~~  
575 ~~for all such services may not exceed the cost of 30 days after~~  
576 ~~inpatient hospitalization for psychiatric services, including~~  
577 ~~physician fees, which prevail in the community in which the~~  
578 ~~partial hospitalization services are rendered. If partial~~





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579 ~~hospitalization services benefits are provided beyond the limits~~  
580 ~~set forth in this paragraph, the durational limits, dollar~~  
581 ~~amounts, and coinsurance factors thereof need not be the same as~~  
582 ~~those applicable to physical illness generally.~~

583 (3) Insurers must maintain strict confidentiality regarding  
584 psychiatric and psychotherapeutic records submitted to an  
585 insurer for the purpose of reviewing a claim for benefits  
586 payable under this section. These records submitted to an  
587 insurer are subject to the limitations of s. 456.057, relating  
588 to the furnishing of patient records.

589 (4) Every insurer shall submit an annual affidavit  
590 attesting to compliance with the applicable provisions of the  
591 MHPAEA.

592 (5) The office shall implement and enforce applicable  
593 provisions of MHPAEA and federal guidance or regulations  
594 relating to MHPAEA, including, but not limited to, 45 C.F.R. s.  
595 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a)(3),  
596 and this section.

597 (6) The Financial Services Commission may adopt rules to  
598 implement this section.

599 Section 10. Subsection (4) is added to section 627.669,  
600 Florida Statutes, to read:

601 627.669 Optional coverage required for substance abuse  
602 impaired persons; exception.-

603 (4) This section is repealed January 1, 2021.

604 Section 11. Effective January 1, 2021, present subsection  
605 (17) of section 627.6699, Florida Statutes, is redesignated as  
606 subsection (18), and a new subsection (17) is added to that  
607 section, to read:



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608 627.6699 Employee Health Care Access Act.-

609 (17) MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS.-A health  
610 benefit plan that provides coverage to employees of a small  
611 employer is subject to s. 627.4193.

612 Section 12. Effective January 1, 2021, subsection (9) is  
613 added to section 641.26, Florida Statutes, to read:

614 641.26 Annual and quarterly reports.-

615 (9) Every health maintenance organization issuing,  
616 delivering, or issuing for delivery contracts providing  
617 comprehensive major medical coverage shall annually submit an  
618 affidavit to the office attesting to compliance with the  
619 requirements of s. 627.4193. The office may adopt rules to  
620 implement this subsection.

621 Section 13. Effective January 1, 2021, subsection (48) is  
622 added to section 641.31, Florida Statutes, to read:

623 641.31 Health maintenance contracts.-

624 (48) All health maintenance contracts that provide  
625 comprehensive medical coverage must comply with the coverage  
626 provisions of s. 627.4193. The commission may adopt rules to  
627 implement this subsection.

628 Section 14. Section 786.1516, Florida Statutes, is created  
629 to read:

630 786.1516 Immunity for providing assistance in a suicide  
631 emergency.-

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

633 (a) "Emergency care" means assistance or advice offered to  
634 avoid, mitigate, or attempt to mitigate the effects of a suicide  
635 emergency.

636 (b) "Suicide emergency" means an occurrence that reasonably



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637 indicates an individual is at risk of dying or attempting to die  
638 by suicide.

639 (2) A person who provides emergency care at or near the  
640 scene of a suicide emergency, gratuitously and in good faith, is  
641 not liable for any civil damages or penalties as a result of any  
642 act or omission by the person providing the emergency care  
643 unless the person is grossly negligent or caused the suicide  
644 emergency.

645 Section 15. Present subsection (28) of section 1002.33,  
646 Florida Statutes, is redesignated as subsection (29), and a new  
647 subsection (28) is added to that section, to read:

648 1002.33 Charter schools.—

649 (28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH  
650 SUICIDE AWARENESS AND PREVENTION.—

651 (a) By October 1, 2020, every charter school must:

652 1. Incorporate 2 hours of training offered pursuant to s.  
653 1012.583. The training must be included in the existing  
654 continuing education or inservice training requirements for  
655 instructional personnel and may not add to the total hours  
656 currently required by the department. Every charter school must  
657 require all instructional personnel to participate.

658 2. Have at least two school-based staff members certified  
659 or otherwise deemed competent in the use of a suicide screening  
660 instrument approved under s. 1012.583(1) and have a policy to  
661 use such suicide risk screening instrument to evaluate a  
662 student's suicide risk before requesting the initiation of, or  
663 initiating, an involuntary examination due to concerns about  
664 that student's suicide risk.

665 (b) Every charter school must report its compliance with



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666 this subsection to the department.

667 Section 16. Subsections (2) and (3) of section 1012.583,  
668 Florida Statutes, are amended to read:

669 1012.583 Continuing education and inservice training for  
670 youth suicide awareness and prevention.—

671 (2) By October 1, 2020, every public school must A school  
672 shall be considered a "Suicide Prevention Certified School" if  
673 it:

674 (a) Incorporate Incorporates 2 hours of training offered  
675 pursuant to this section. The training must be included in the  
676 existing continuing education or inservice training requirements  
677 for instructional personnel and may not add to the total hours  
678 currently required by the department. Every public school A  
679 school that chooses to participate in the training must require  
680 all instructional personnel to participate.

681 (b) Have Has at least two school-based staff members  
682 certified or otherwise deemed competent in the use of a suicide  
683 screening instrument approved under subsection (1) and have has  
684 a policy to use such suicide risk screening instrument to  
685 evaluate a student's suicide risk before requesting the  
686 initiation of, or initiating, an involuntary examination due to  
687 concerns about that student's suicide risk.

688 (3) Every public school A school that meets the criteria in  
689 subsection (2) must report its compliance with this section to  
690 the department. The department shall keep an updated record of  
691 all Suicide Prevention Certified Schools and shall post the list  
692 of these schools on the department's website. Each school shall  
693 also post on its own website whether it is a Suicide Prevention  
694 Certified School, and each school district shall post on its



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695 ~~district website a list of the Suicide Prevention Certified~~  
696 ~~Schools in that district.~~

697 Section 17. Paragraphs (a) and (c) of subsection (3) of  
698 section 394.495, Florida Statutes, are amended to read:  
699 394.495 Child and adolescent mental health system of care;  
700 programs and services.-

701 (3) Assessments must be performed by:  
702 (a) A professional as defined in s. 394.455(5), (7), (33)  
703 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

704 (c) A person who is under the direct supervision of a  
705 qualified professional as defined in s. 394.455(5), (7), (33)  
706 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under  
707 chapter 491.

708 Section 18. Subsection (5) of section 394.496, Florida  
709 Statutes, is amended to read:

710 394.496 Service planning.-  
711 (5) A professional as defined in s. 394.455(5), (7), (33)  
712 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under  
713 chapter 491 must be included among those persons developing the  
714 services plan.

715 Section 19. Subsection (6) of section 394.9085, Florida  
716 Statutes, is amended to read:

717 394.9085 Behavioral provider liability.-  
718 (6) For purposes of this section, the terms "detoxification  
719 services," "addictions receiving facility," and "receiving  
720 facility" have the same meanings as those provided in ss.  
721 397.311(26)(a)4., 397.311(26)(a)1., and 394.455(40) ~~394.455(39)~~,  
722 respectively.

723 Section 20. Paragraph (b) of subsection (1) of section



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724 409.972, Florida Statutes, is amended to read:

725 409.972 Mandatory and voluntary enrollment.-

726 (1) The following Medicaid-eligible persons are exempt from  
727 mandatory managed care enrollment required by s. 409.965, and  
728 may voluntarily choose to participate in the managed medical  
729 assistance program:

730 (b) Medicaid recipients residing in residential commitment  
731 facilities operated through the Department of Juvenile Justice  
732 or a treatment facility as defined in s. 394.455~~(47)~~.

733 Section 21. Paragraph (e) of subsection (4) of section  
734 464.012, Florida Statutes, is amended to read:

735 464.012 Licensure of advanced practice registered nurses;  
736 fees; controlled substance prescribing.-

737 (4) In addition to the general functions specified in  
738 subsection (3), an advanced practice registered nurse may  
739 perform the following acts within his or her specialty:

740 (e) A psychiatric nurse, who meets the requirements in s.  
741 394.455(36) ~~s. 394.455(35)~~, within the framework of an  
742 established protocol with a psychiatrist, may prescribe  
743 psychotropic controlled substances for the treatment of mental  
744 disorders.

745 Section 22. Subsection (7) of section 744.2007, Florida  
746 Statutes, is amended to read:

747 744.2007 Powers and duties.-

748 (7) A public guardian may not commit a ward to a treatment  
749 facility, as defined in s. 394.455~~(47)~~, without an involuntary  
750 placement proceeding as provided by law.

751 Section 23. The Office of Program Policy Analysis and  
752 Government Accountability shall perform a review of suicide



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753 prevention programs and efforts made by other states and make  
754 recommendations on their applicability to this state. The office  
755 shall submit a report containing the findings and  
756 recommendations to the President of the Senate and the Speaker  
757 of the House of Representatives by January 1, 2021.

758 Section 24. Except as otherwise expressly provided in this  
759 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		<b>CF Submitted as Committee Bill</b>
1.	Sneed	Kidd	AHS	<b>Recommend: Fav/CS</b>
2.	Sneed	Kynoch	AP	<b>Fav/CS</b>

**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,<sup>1</sup> with complex causes such as mental health and substance use disorders, painful losses, exposure to violence, and social isolation.<sup>2</sup> Suicide rates increased in nearly every state from 1999 through 2016.<sup>3</sup> In 2017, suicide was the second leading cause of death nationwide for persons aged 10–14, 15–19,

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<sup>1</sup> Heron M. *Deaths: Leading Causes for 2017*. National Vital Statistics Reports; Vol. 68 No 6. Hyattsville, MD: National Center for Health Statistics. 2019.

<sup>2</sup> Substance Abuse and Mental Health Service Administration, *Suicide Prevention*, available at: <https://www.samhsa.gov/suicide-prevention> (last visited November 7, 2019).

<sup>3</sup> 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.<sup>4</sup> 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).<sup>5</sup>

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.<sup>6</sup> The factors that contribute to any particular suicide are diverse; therefore, efforts related to suicide prevention must incorporate multiple approaches.<sup>7</sup>

In Florida, the rate of suicides increased by 10.6 percent from 1996 to 2016.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup>

### **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

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> 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).

<sup>6</sup> *Supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> *Supra* note 2.

<sup>9</sup> 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).

<sup>10</sup> Section 14.2019, F.S.

<sup>11</sup> *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.<sup>12</sup>

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.<sup>13</sup>

### **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.<sup>14</sup> Many first responders previously served in the military, which likely exposed them to trauma prior to becoming a first responder.<sup>15</sup> 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.<sup>16</sup>

### **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.<sup>17</sup> 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.<sup>18</sup>

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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<sup>12</sup> Section 14.20195, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> 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](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.

<sup>15</sup> *Id.* at 9.

<sup>16</sup> *Id.*

<sup>17</sup> 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/lemhwareources> (last visited Feb. 5, 2020).

<sup>18</sup> Public Law 115-113 (115<sup>th</sup> 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.<sup>19</sup>

### **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.<sup>20</sup> Psychosis may be caused by medications or alcohol or drug abuse but can also be a symptom of mental illness or a physical condition.<sup>21</sup>

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.<sup>22</sup> 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.<sup>23</sup> Risk factors that may contribute to the development of psychosis include stressors such as physical illness, substance use, and psychological or physical trauma.<sup>24</sup>

Early psychosis, known as “first-episode psychosis,” is the most important time to connect an individual with treatment.<sup>25</sup> Studies have shown that it is common for a person to experience psychotic symptoms for more than a year before ever receiving treatment.<sup>26</sup> 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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<sup>19</sup> 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>

<sup>20</sup> 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).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> 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).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Supra* note 20.

recovery goals.<sup>27</sup> Coordinated specialty care programs provide people with early psychosis, greater improvement in their symptoms.<sup>28</sup>

## **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.<sup>29</sup> 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.<sup>30</sup> 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.<sup>31</sup>

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.<sup>32</sup> 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.<sup>33</sup> 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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<sup>27</sup> *Supra* note 23.

<sup>28</sup> *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).

<sup>29</sup> National Center for PTSD, *How Common is PTSD? PTSD and the Military*, available at: [https://www.ptsd.va.gov/understand/common/common\\_veterans.asp](https://www.ptsd.va.gov/understand/common/common_veterans.asp) (last visited November 6, 2019).

<sup>30</sup> *Id.*

<sup>31</sup> 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](http://www.rand.org/pubs/monographs/2008/RAND_MG720.pdf) (last visited November 6, 2019).

<sup>32</sup> 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](https://www.mentalhealth.va.gov/docs/data-sheets/2019/2019_National_Veteran_Suicide_Prevention_Annual_Report_508.pdf) (last visited November 6, 2019).

<sup>33</sup> 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.<sup>34</sup>

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.<sup>35</sup> 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.<sup>36</sup> If the defendant is found to be competent, the criminal proceeding resumes.<sup>37</sup> If the defendant is found to be incompetent to proceed, the proceeding may not resume unless competency is restored.<sup>38</sup> 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.<sup>39</sup>

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<sup>40</sup> to an appropriate facility or program for treatment and must retain and treat the defendant.<sup>41</sup>

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<sup>42</sup> and forensic<sup>43</sup> treatment facilities by the circuit court,<sup>44, 45</sup> 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.<sup>46</sup>

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<sup>34</sup> Section 916.12(1), F.S.

<sup>35</sup> Rule 3.210, Fla.R.Crim.P.

<sup>36</sup> *Id.*

<sup>37</sup> Rule 3.212, Fla.R.Crim.P.

<sup>38</sup> *Id.*

<sup>39</sup> 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).

<sup>40</sup> 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.

<sup>41</sup> Section 916.15(3), F.S.

<sup>42</sup> 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.

<sup>43</sup> 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.

<sup>44</sup> "Court" is defined to mean the circuit court. Section 916.106(5), F.S.

<sup>45</sup> Sections 916.13, 916.15, and 916.302, F.S.

<sup>46</sup> 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<sup>47</sup> 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.<sup>48</sup> 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.<sup>49</sup>

## 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.<sup>50</sup>

## Licensure Requirements for Substance Abuse Service Providers

The DCF regulates substance abuse treatment by licensing individual treatment components under statute and rule.<sup>51</sup> All private and publicly-funded entities providing substance abuse services must be licensed for each service component they provide.<sup>52</sup> 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.;

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<sup>47</sup> 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).

<sup>48</sup> Section 916.107(3)(a)2.a., F.S.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Ch. 397, F.S. and R. 65D-30, F.A.C.

<sup>52</sup> 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.<sup>53</sup>

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.<sup>54</sup>

Licensed service components include a continuum of substance abuse prevention,<sup>55</sup> intervention,<sup>56</sup> and clinical treatment services.<sup>57</sup> 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.<sup>58</sup> “Clinical treatment services” include, but are not limited to, the following licensable service components:<sup>59</sup>

- 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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<sup>53</sup> Section 397.4012, F.S.

<sup>54</sup> *Id.*

<sup>55</sup> 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.

<sup>56</sup> 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.

<sup>57</sup> Section 397.311(25), F.S.

<sup>58</sup> *Id.*

<sup>59</sup> 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.<sup>60</sup> 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.<sup>61</sup>

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.<sup>62</sup>

### **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 health 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,<sup>63</sup> require a licensee to submit sworn affidavit or statement attesting that he or she has completed the required CE hours,<sup>64</sup> 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:

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<sup>60</sup> Department of Children and Families, Agency Bill Analysis, SB 1678, January 14, 2020. On file with the Senate Children, Families, and Elder Affairs Committee.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> Section 457.107, F.S.

<sup>64</sup> 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.<sup>65</sup>
- 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.<sup>66</sup>
- 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.<sup>67</sup>

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.<sup>68</sup>

### **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:<sup>69</sup>

- 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

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<sup>65</sup> Section 768.13(2)(a), F.S.

<sup>66</sup> Section 768.13(2)(d), F.S.

<sup>67</sup> Section 768.13(3), F.S.

<sup>68</sup> Schiff, Damien, *Samaritans: Good, Bad and Ugly: A Comparative Law Analysis*, 11 Roger Williams Univ. L. Rev. 95 (2005).

<sup>69</sup> 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

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1 A bill to be entitled  
 2 An act relating to mental health; amending s. 14.2019,  
 3 F.S.; providing additional duties for the Statewide  
 4 Office for Suicide Prevention; amending s. 14.20195,  
 5 F.S.; providing additional duties for the Suicide  
 6 Prevention Coordinating Council; revising the  
 7 composition of the council; amending s. 334.044, F.S.;  
 8 requiring the Department of Transportation to work  
 9 with the office in developing a plan relating to  
 10 evidence-based suicide deterrents in certain  
 11 locations; amending s. 394.455, F.S.; defining the  
 12 term "first episode psychosis program"; amending s.  
 13 394.4573, F.S.; revising the requirements for the  
 14 annual state behavioral health services assessment;  
 15 revising the essential elements of a coordinated  
 16 system of care; amending s. 394.463, F.S.; requiring  
 17 that certain information be provided to the guardian  
 18 or representative of a minor patient released from  
 19 involuntary examination; creating s. 456.0342, F.S.;  
 20 providing applicability; requiring specified persons  
 21 to complete certain suicide prevention education  
 22 courses by a specified date; requiring certain boards  
 23 to include the hours for such courses in the total  
 24 hours of continuing education required for the  
 25 profession; amending s. 627.6675, F.S.; conforming a  
 26 provision to changes made by the act; transferring,  
 27 renumbering, and amending s. 627.668, F.S.; requiring  
 28 certain entities issuing, delivering, or issuing for  
 29 delivery certain health insurance policies to comply

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30 with specified federal provisions that prohibit the  
 31 imposition of less favorable benefit limitations on  
 32 mental health and substance use disorder benefits than  
 33 on medical and surgical benefits; deleting provisions  
 34 relating to optional coverage for mental and nervous  
 35 disorders by such entities; revising the standard for  
 36 defining substance use disorders; requiring such  
 37 entities to submit an annual affidavit attesting to  
 38 compliance with federal law; requiring the office to  
 39 implement and enforce certain federal laws in a  
 40 specified manner; authorizing the Financial Services  
 41 Commission to adopt rules; repealing s. 627.669, F.S.,  
 42 relating to optional coverage required for substance  
 43 abuse impaired persons; amending s. 627.6699, F.S.;  
 44 providing applicability; amending s. 641.26, F.S.;  
 45 requiring certain entities to submit an annual  
 46 affidavit to the Office of Insurance Regulation  
 47 attesting to compliance with certain requirements;  
 48 authorizing the office to adopt rules; amending s.  
 49 641.31, F.S.; requiring that certain health  
 50 maintenance contracts comply with certain  
 51 requirements; authorizing the commission to adopt  
 52 rules; creating s. 786.1516, F.S.; defining the terms  
 53 "emergency care" and "suicide emergency"; providing  
 54 that persons providing certain emergency care are not  
 55 liable for civil damages or penalties under certain  
 56 circumstances; amending ss. 1002.33 and 1012.583,  
 57 F.S.; requiring charter schools and public schools,  
 58 respectively, to incorporate certain training on

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59 suicide prevention in continuing education and  
 60 inservice training requirements; providing that such  
 61 schools must require all instructional personnel to  
 62 participate in the training; requiring such schools to  
 63 have a specified minimum number of staff members who  
 64 are certified or deemed competent in the use of  
 65 suicide screening instruments; requiring such schools  
 66 to have a policy for such instruments; requiring such  
 67 schools to report certain compliance to the Department  
 68 of Education; conforming provisions to changes made by  
 69 the act; amending ss. 394.495, 394.496, 394.9085,  
 70 409.972, 464.012, and 744.2007, F.S.; conforming  
 71 cross-references; requiring the Office of Program  
 72 Policy Analysis and Government Accountability to  
 73 perform a review of certain programs and efforts  
 74 relating to suicide prevention programs in other  
 75 states and make certain recommendations; requiring the  
 76 office to submit a report to the Legislature by a  
 77 specified date; providing effective dates.

78  
 79 Be It Enacted by the Legislature of the State of Florida:

80  
 81 Section 1. Paragraphs (a) and (d) of subsection (2) of  
 82 section 14.2019, Florida Statutes, are amended, and paragraphs  
 83 (e) and (f) are added to that subsection, to read:

84 14.2019 Statewide Office for Suicide Prevention.—

85 (2) The statewide office shall, within available resources:

86 (a) Develop a network of community-based programs to  
 87 improve suicide prevention initiatives. The network shall

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88 identify and work to eliminate barriers to providing suicide  
 89 prevention services to individuals who are at risk of suicide.  
 90 The network shall consist of stakeholders advocating suicide  
 91 prevention, including, but not limited to, not-for-profit  
 92 suicide prevention organizations, faith-based suicide prevention  
 93 organizations, law enforcement agencies, first responders to  
 94 emergency calls, veterans, servicemembers, suicide prevention  
 95 community coalitions, schools and universities, mental health  
 96 agencies, substance abuse treatment agencies, health care  
 97 providers, and school personnel.

98 (d) Coordinate education and training curricula in suicide  
 99 prevention efforts for law enforcement personnel, first  
 100 responders to emergency calls, veterans, servicemembers, health  
 101 care providers, school employees, and other persons who may have  
 102 contact with persons at risk of suicide.

103 (e) Act as a clearinghouse for information and resources  
 104 related to suicide prevention by:

105 1. Disseminating and sharing evidence-based best practices  
 106 relating to suicide prevention;

107 2. Collecting and analyzing data on trends in suicide and  
 108 suicide attempts annually by county, age, gender, profession,  
 109 and other demographics as designated by the statewide office.

110 (f) Advise the Department of Transportation on the  
 111 implementation of evidence-based suicide deterrents in the  
 112 design elements and features of infrastructure projects  
 113 throughout the state.

114 Section 2. Paragraph (c) of subsection (1) and subsection  
 115 (2) of section 14.20195, Florida Statutes, are amended, and  
 116 paragraph (d) is added to subsection (1) of that section, to

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117 read:

118 14.20195 Suicide Prevention Coordinating Council; creation;  
119 membership; duties.—There is created within the Statewide Office  
120 for Suicide Prevention a Suicide Prevention Coordinating  
121 Council. The council shall develop strategies for preventing  
122 suicide.

123 (1) SCOPE OF ACTIVITY.—The Suicide Prevention Coordinating  
124 Council is a coordinating council as defined in s. 20.03 and  
125 shall:

126 (c) Make findings and recommendations regarding suicide  
127 prevention programs and activities, including, but not limited  
128 to, the implementation of evidence-based mental health awareness  
129 and assistance training programs and gatekeeper training in  
130 municipalities throughout the state. The council shall prepare  
131 an annual report and present it to the Governor, the President  
132 of the Senate, and the Speaker of the House of Representatives  
133 by January 1, each year. The annual report must describe the  
134 status of existing and planned initiatives identified in the  
135 statewide plan for suicide prevention and any recommendations  
136 arising therefrom.

137 (d) In conjunction with the Department of Children and  
138 Families, advise members of the public on the locations and  
139 availability of local behavioral health providers.

140 (2) MEMBERSHIP.—The Suicide Prevention Coordinating Council  
141 shall consist of 32 ~~27~~ voting members and one nonvoting member.

142 (a) Eighteen ~~Thirteen~~ members shall be appointed by the  
143 director of the Statewide Office for Suicide Prevention and  
144 shall represent the following organizations:

145 1. The Florida Association of School Psychologists.

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- 146 2. The Florida Sheriffs Association.  
147 3. The Suicide Prevention Action Network USA.  
148 4. The Florida Initiative of Suicide Prevention.  
149 5. The Florida Suicide Prevention Coalition.  
150 6. The American Foundation of Suicide Prevention.  
151 7. The Florida School Board Association.  
152 8. The National Council for Suicide Prevention.  
153 9. The state chapter of AARP.  
154 10. The Florida Behavioral Health Association ~~The Florida~~  
155 ~~Alcohol and Drug Abuse Association.~~  
156 11. The Florida Council for Community Mental Health.  
157 ~~12.~~ The Florida Counseling Association.  
158 ~~12.13-~~ NAMI Florida.  
159 13. The Florida Medical Association.  
160 14. The Florida Osteopathic Medical Association.  
161 15. The Florida Psychiatric Society.  
162 16. The Florida Psychological Association.  
163 17. Veterans Florida.  
164 18. The Florida Association of Managing Entities.  
165 (b) The following state officials or their designees shall  
166 serve on the coordinating council:  
167 1. The Secretary of Elderly Affairs.  
168 2. The State Surgeon General.  
169 3. The Commissioner of Education.  
170 4. The Secretary of Health Care Administration.  
171 5. The Secretary of Juvenile Justice.  
172 6. The Secretary of Corrections.  
173 7. The executive director of the Department of Law  
174 Enforcement.

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175 8. The executive director of the Department of Veterans'  
176 Affairs.

177 9. The Secretary of Children and Families.

178 10. The executive director of the Department of Economic  
179 Opportunity.

180 (c) The Governor shall appoint four additional members to  
181 the coordinating council. The appointees must have expertise  
182 that is critical to the prevention of suicide or represent an  
183 organization that is not already represented on the coordinating  
184 council.

185 (d) For the members appointed by the director of the  
186 Statewide Office for Suicide Prevention, seven members shall be  
187 appointed to initial terms of 3 years, and seven members shall  
188 be appointed to initial terms of 4 years. For the members  
189 appointed by the Governor, two members shall be appointed to  
190 initial terms of 4 years, and two members shall be appointed to  
191 initial terms of 3 years. Thereafter, such members shall be  
192 appointed to terms of 4 years. Any vacancy on the coordinating  
193 council shall be filled in the same manner as the original  
194 appointment, and any member who is appointed to fill a vacancy  
195 occurring because of death, resignation, or ineligibility for  
196 membership shall serve only for the unexpired term of the  
197 member's predecessor. A member is eligible for reappointment.

198 (e) The director of the Statewide Office for Suicide  
199 Prevention shall be a nonvoting member of the coordinating  
200 council and shall act as chair.

201 (f) Members of the coordinating council shall serve without  
202 compensation. Any member of the coordinating council who is a  
203 public employee is entitled to reimbursement for per diem and

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204 travel expenses as provided in s. 112.061.

205 Section 3. Present paragraph (c) of subsection (10) of  
206 section 334.044, Florida Statutes, is redesignated as paragraph  
207 (d), and a new paragraph (c) is added to that subsection, to  
208 read:

209 334.044 Powers and duties of the department.—The department  
210 shall have the following general powers and duties:

211 (10)

212 (c) The department shall work with the Statewide Office for  
213 Suicide Prevention in developing a plan to consider the  
214 implementation of evidence-based suicide deterrents on all new  
215 infrastructure projects.

216 Section 4. Present subsections (17) through (48) of section  
217 394.455, Florida Statutes, are redesignated as subsections (18)  
218 through (49), respectively, and a new subsection (17) is added  
219 to that section, to read:

220 394.455 Definitions.—As used in this part, the term:

221 (17) "First episode psychosis program" means an evidence-  
222 based program for individuals between 14 and 30 years of age who  
223 are experiencing early indications of serious mental illness,  
224 especially a first episode of psychotic symptoms. The program  
225 includes, but is not limited to, intensive case management,  
226 individual or group therapy, supported employment, family  
227 education and supports, and appropriate psychotropic medication,  
228 as indicated.

229 Section 5. Section 394.4573, Florida Statutes, is amended  
230 to read:

231 394.4573 Coordinated system of care; annual assessment;  
232 essential elements; measures of performance; system improvement

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233 grants; reports.—On or before December 1 of each year, the  
 234 department shall submit to the Governor, the President of the  
 235 Senate, and the Speaker of the House of Representatives an  
 236 assessment of the behavioral health services in this state. The  
 237 assessment shall consider, at a minimum, the extent to which  
 238 designated receiving systems function as no-wrong-door models,  
 239 the availability of treatment and recovery services that use  
 240 recovery-oriented and peer-involved approaches, the availability  
 241 of less-restrictive services, and the use of evidence-informed  
 242 practices. The assessment must also describe the availability of  
 243 and access to first episode psychosis programs, and any gaps in  
 244 the availability and access of such programs, in all areas of  
 245 the state. The department's assessment shall consider, at a  
 246 minimum, the needs assessments conducted by the managing  
 247 entities pursuant to s. 394.9082(5). Beginning in 2017, the  
 248 department shall compile and include in the report all plans  
 249 submitted by managing entities pursuant to s. 394.9082(8) and  
 250 the department's evaluation of each plan.

251 (1) As used in this section:

252 (a) "Care coordination" means the implementation of  
 253 deliberate and planned organizational relationships and service  
 254 procedures that improve the effectiveness and efficiency of the  
 255 behavioral health system by engaging in purposeful interactions  
 256 with individuals who are not yet effectively connected with  
 257 services to ensure service linkage. Examples of care  
 258 coordination activities include development of referral  
 259 agreements, shared protocols, and information exchange  
 260 procedures. The purpose of care coordination is to enhance the  
 261 delivery of treatment services and recovery supports and to

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262 improve outcomes among priority populations.

263 (b) "Case management" means those direct services provided  
 264 to a client in order to assess his or her needs, plan or arrange  
 265 services, coordinate service providers, link the service system  
 266 to a client, monitor service delivery, and evaluate patient  
 267 outcomes to ensure the client is receiving the appropriate  
 268 services.

269 (c) "Coordinated system of care" means the full array of  
 270 behavioral and related services in a region or community offered  
 271 by all service providers, whether participating under contract  
 272 with the managing entity or by another method of community  
 273 partnership or mutual agreement.

274 (d) "No-wrong-door model" means a model for the delivery of  
 275 acute care services to persons who have mental health or  
 276 substance use disorders, or both, which optimizes access to  
 277 care, regardless of the entry point to the behavioral health  
 278 care system.

279 (2) The essential elements of a coordinated system of care  
 280 include:

281 (a) Community interventions, such as prevention, primary  
 282 care for behavioral health needs, therapeutic and supportive  
 283 services, crisis response services, and diversion programs.

284 (b) A designated receiving system that consists of one or  
 285 more facilities serving a defined geographic area and  
 286 responsible for assessment and evaluation, both voluntary and  
 287 involuntary, and treatment or triage of patients who have a  
 288 mental health or substance use disorder, or co-occurring  
 289 disorders.

290 1. A county or several counties shall plan the designated

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291 receiving system using a process that includes the managing  
 292 entity and is open to participation by individuals with  
 293 behavioral health needs and their families, service providers,  
 294 law enforcement agencies, and other parties. The county or  
 295 counties, in collaboration with the managing entity, shall  
 296 document the designated receiving system through written  
 297 memoranda of agreement or other binding arrangements. The county  
 298 or counties and the managing entity shall complete the plan and  
 299 implement the designated receiving system by July 1, 2017, and  
 300 the county or counties and the managing entity shall review and  
 301 update, as necessary, the designated receiving system at least  
 302 once every 3 years.

303 2. To the extent permitted by available resources, the  
 304 designated receiving system shall function as a no-wrong-door  
 305 model. The designated receiving system may be organized in any  
 306 manner which functions as a no-wrong-door model that responds to  
 307 individual needs and integrates services among various  
 308 providers. Such models include, but are not limited to:

309 a. A central receiving system that consists of a designated  
 310 central receiving facility that serves as a single entry point  
 311 for persons with mental health or substance use disorders, or  
 312 co-occurring disorders. The central receiving facility shall be  
 313 capable of assessment, evaluation, and triage or treatment or  
 314 stabilization of persons with mental health or substance use  
 315 disorders, or co-occurring disorders.

316 b. A coordinated receiving system that consists of multiple  
 317 entry points that are linked by shared data systems, formal  
 318 referral agreements, and cooperative arrangements for care  
 319 coordination and case management. Each entry point shall be a

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320 designated receiving facility and shall, within existing  
 321 resources, provide or arrange for necessary services following  
 322 an initial assessment and evaluation.

323 c. A tiered receiving system that consists of multiple  
 324 entry points, some of which offer only specialized or limited  
 325 services. Each service provider shall be classified according to  
 326 its capabilities as either a designated receiving facility or  
 327 another type of service provider, such as a triage center, a  
 328 licensed detoxification facility, or an access center. All  
 329 participating service providers shall, within existing  
 330 resources, be linked by methods to share data, formal referral  
 331 agreements, and cooperative arrangements for care coordination  
 332 and case management.

333  
 334 An accurate inventory of the participating service providers  
 335 which specifies the capabilities and limitations of each  
 336 provider and its ability to accept patients under the designated  
 337 receiving system agreements and the transportation plan  
 338 developed pursuant to this section shall be maintained and made  
 339 available at all times to all first responders in the service  
 340 area.

341 (c) Transportation in accordance with a plan developed  
 342 under s. 394.462.

343 (d) Crisis services, including mobile response teams,  
 344 crisis stabilization units, addiction receiving facilities, and  
 345 detoxification facilities.

346 (e) Case management. Each case manager or person directly  
 347 supervising a case manager who provides Medicaid-funded targeted  
 348 case management services shall hold a valid certification from a

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349 department-approved credentialing entity as defined in s.  
 350 397.311(10) by July 1, 2017, and, thereafter, within 6 months  
 351 after hire.

352 (f) Care coordination that involves coordination with other  
 353 local systems and entities, public and private, which are  
 354 involved with the individual, such as primary care, child  
 355 welfare, behavioral health care, and criminal and juvenile  
 356 justice organizations.

357 (g) Outpatient services.

358 (h) Residential services.

359 (i) Hospital inpatient care.

360 (j) Aftercare and other postdischarge services.

361 (k) Medication-assisted treatment and medication  
 362 management.

363 (l) Recovery support, including, but not limited to,  
 364 support for competitive employment, educational attainment,  
 365 independent living skills development, family support and  
 366 education, wellness management and self-care, and assistance in  
 367 obtaining housing that meets the individual's needs. Such  
 368 housing may include mental health residential treatment  
 369 facilities, limited mental health assisted living facilities,  
 370 adult family care homes, and supportive housing. Housing  
 371 provided using state funds must provide a safe and decent  
 372 environment free from abuse and neglect.

373 (m) Care plans shall assign specific responsibility for  
 374 initial and ongoing evaluation of the supervision and support  
 375 needs of the individual and the identification of housing that  
 376 meets such needs. For purposes of this paragraph, the term  
 377 "supervision" means oversight of and assistance with compliance

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378 with the clinical aspects of an individual's care plan.  
 379 (n) First episode psychosis programs.

380 (3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific  
 381 appropriation by the Legislature, the department may award  
 382 system improvement grants to managing entities based on a  
 383 detailed plan to enhance services in accordance with the no-  
 384 wrong-door model as defined in subsection (1) and to address  
 385 specific needs identified in the assessment prepared by the  
 386 department pursuant to this section. Such a grant must be  
 387 awarded through a performance-based contract that links payments  
 388 to the documented and measurable achievement of system  
 389 improvements.

390 Section 6. Subsection (3) of section 394.463, Florida  
 391 Statutes, is amended to read:  
 392 394.463 Involuntary examination.—  
 393 (3) NOTICE OF RELEASE.—Notice of the release shall be given  
 394 to the patient's guardian or representative, to any person who  
 395 executed a certificate admitting the patient to the receiving  
 396 facility, and to any court which ordered the patient's  
 397 evaluation. If the patient is a minor, information regarding the  
 398 availability of a local mobile response service, suicide  
 399 prevention resources, social supports, and local self-help  
 400 groups must also be provided to the patient's guardian or  
 401 representative along with the notice of the release.

402 Section 7. Section 456.0342, Florida Statutes, is created  
 403 to read:  
 404 456.0342 Required instruction on suicide prevention.—The  
 405 requirements of this section apply to each person licensed or  
 406 certified under chapter 458, chapter 459, or part I of chapter

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407 464.

408 (1) By January 1, 2022, each licensed or certified  
 409 practitioner shall complete a board-approved 2-hour continuing  
 410 education course on suicide prevention. The course must address  
 411 suicide risk assessment, treatment, and management.

412 (2) Each licensing board that requires a licensee or  
 413 certificate holder to complete a course pursuant to this section  
 414 must include the hours required for completion in the total  
 415 hours of continuing education required by law for such  
 416 profession.

417 Section 8. Effective January 1, 2021, paragraph (b) of  
 418 subsection (8) of section 627.6675, Florida Statutes, is amended  
 419 to read:

420 627.6675 Conversion on termination of eligibility.—Subject  
 421 to all of the provisions of this section, a group policy  
 422 delivered or issued for delivery in this state by an insurer or  
 423 nonprofit health care services plan that provides, on an  
 424 expense-incurred basis, hospital, surgical, or major medical  
 425 expense insurance, or any combination of these coverages, shall  
 426 provide that an employee or member whose insurance under the  
 427 group policy has been terminated for any reason, including  
 428 discontinuance of the group policy in its entirety or with  
 429 respect to an insured class, and who has been continuously  
 430 insured under the group policy, and under any group policy  
 431 providing similar benefits that the terminated group policy  
 432 replaced, for at least 3 months immediately prior to  
 433 termination, shall be entitled to have issued to him or her by  
 434 the insurer a policy or certificate of health insurance,  
 435 referred to in this section as a “converted policy.” A group

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436 insurer may meet the requirements of this section by contracting  
 437 with another insurer, authorized in this state, to issue an  
 438 individual converted policy, which policy has been approved by  
 439 the office under s. 627.410. An employee or member shall not be  
 440 entitled to a converted policy if termination of his or her  
 441 insurance under the group policy occurred because he or she  
 442 failed to pay any required contribution, or because any  
 443 discontinued group coverage was replaced by similar group  
 444 coverage within 31 days after discontinuance.

445 (8) BENEFITS OFFERED.—

446 (b) An insurer shall offer the benefits specified in s.  
 447 627.4193 ~~s. 627.668~~ and the benefits specified in ~~s. 627.669~~ if  
 448 those benefits were provided in the group plan.

449 Section 9. Effective January 1, 2021, section 627.668,  
 450 Florida Statutes, is transferred, renumbered as section  
 451 627.4193, Florida Statutes, and amended to read:

452 627.4193 ~~627.668~~ Requirements for mental health and  
 453 substance use disorder benefits; reporting requirements ~~Optional~~  
 454 ~~coverage for mental and nervous disorders required; exception.—~~

455 (1) Every insurer issuing, delivering, or issuing for  
 456 delivery comprehensive major medical individual or, health  
 457 ~~maintenance organization, and nonprofit hospital and medical~~  
 458 ~~service plan corporation transacting group health insurance~~  
 459 ~~policies or providing prepaid health care in this state must~~  
 460 comply with the federal Paul Wellstone and Pete Domenici Mental  
 461 Health Parity and Addiction Equity Act of 2008 (MHPAEA) and any  
 462 regulations relating to MHPAEA, including, but not limited to,  
 463 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s.  
 464 156.115(a) (3); and must provide ~~shall make available to the~~

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465 ~~policyholder as part of the application, for an appropriate~~  
 466 ~~additional premium under a group hospital and medical expense-~~  
 467 ~~incurred insurance policy, under a group prepaid health care~~  
 468 ~~contract, and under a group hospital and medical service plan~~  
 469 ~~contract,~~ the benefits or level of benefits specified in  
 470 subsection (2) for the medically necessary care and treatment of  
 471 mental and nervous disorders, including substance use disorders,  
 472 as described defined in the Diagnostic and Statistical Manual of  
 473 Mental Disorders, Fifth Edition, published by standard  
 474 nomenclature of the American Psychiatric Association, subject to  
 475 the right of the applicant for a group policy or contract to  
 476 select any alternative benefits or level of benefits as may be  
 477 offered by the insurer, health maintenance organization, or  
 478 service plan corporation provided that, if alternate inpatient,  
 479 outpatient, or partial hospitalization benefits are selected,  
 480 such benefits shall not be less than the level of benefits  
 481 required under paragraph (2) (a), paragraph (2) (b), or paragraph  
 482 (2) (c), respectively.

483 (2) Under individual or group policies described in  
 484 subsection (1) or contracts, inpatient hospital benefits,  
 485 partial hospitalization benefits, and outpatient benefits  
 486 consisting of durational limits, dollar amounts, deductibles,  
 487 and coinsurance factors may not be provided in a manner that is  
 488 more restrictive than medical and surgical benefits, and limits  
 489 on the scope or duration of treatments which are not expressed  
 490 numerically, also known as nonquantitative treatment  
 491 limitations, must be provided in a manner that is comparable and  
 492 may not be applied more stringently than limits on medical and  
 493 surgical benefits, in accordance with 45 C.F.R. s.

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494 146.136(c) (2), (3), and (4) shall not be less favorable than for  
 495 physical illness generally, except that:

496 ~~(a) Inpatient benefits may be limited to not less than 30~~  
 497 ~~days per benefit year as defined in the policy or contract. If~~  
 498 ~~inpatient hospital benefits are provided beyond 30 days per~~  
 499 ~~benefit year, the durational limits, dollar amounts, and~~  
 500 ~~coinsurance factors thereto need not be the same as applicable~~  
 501 ~~to physical illness generally.~~

502 ~~(b) Outpatient benefits may be limited to \$1,000 for~~  
 503 ~~consultations with a licensed physician, a psychologist licensed~~  
 504 ~~pursuant to chapter 490, a mental health counselor licensed~~  
 505 ~~pursuant to chapter 491, a marriage and family therapist~~  
 506 ~~licensed pursuant to chapter 491, and a clinical social worker~~  
 507 ~~licensed pursuant to chapter 491. If benefits are provided~~  
 508 ~~beyond the \$1,000 per benefit year, the durational limits,~~  
 509 ~~dollar amounts, and coinsurance factors thereof need not be the~~  
 510 ~~same as applicable to physical illness generally.~~

511 ~~(c) Partial hospitalization benefits shall be provided~~  
 512 ~~under the direction of a licensed physician. For purposes of~~  
 513 ~~this part, the term "partial hospitalization services" is~~  
 514 ~~defined as those services offered by a program that is~~  
 515 ~~accredited by an accrediting organization whose standards~~  
 516 ~~incorporate comparable regulations required by this state.~~  
 517 ~~Alcohol rehabilitation programs accredited by an accrediting~~  
 518 ~~organization whose standards incorporate comparable regulations~~  
 519 ~~required by this state or approved by the state and licensed~~  
 520 ~~drug abuse rehabilitation programs shall also be qualified~~  
 521 ~~providers under this section. In a given benefit year, if~~  
 522 ~~partial hospitalization services or a combination of inpatient~~

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523 ~~and partial hospitalization are used, the total benefits paid~~  
 524 ~~for all such services may not exceed the cost of 30 days after~~  
 525 ~~inpatient hospitalization for psychiatric services, including~~  
 526 ~~physician fees, which prevail in the community in which the~~  
 527 ~~partial hospitalization services are rendered. If partial~~  
 528 ~~hospitalization services benefits are provided beyond the limits~~  
 529 ~~set forth in this paragraph, the durational limits, dollar~~  
 530 ~~amounts, and coinsurance factors thereof need not be the same as~~  
 531 ~~these applicable to physical illness generally.~~

532 (3) Insurers must maintain strict confidentiality regarding  
 533 psychiatric and psychotherapeutic records submitted to an  
 534 insurer for the purpose of reviewing a claim for benefits  
 535 payable under this section. These records submitted to an  
 536 insurer are subject to the limitations of s. 456.057, relating  
 537 to the furnishing of patient records.

538 (4) Every insurer shall submit an annual affidavit  
 539 attesting to compliance with the applicable provisions of the  
 540 MHPAEA.

541 (5) The office shall implement and enforce applicable  
 542 provisions of MHPAEA and federal guidance or regulations  
 543 relating to MHPAEA, including, but not limited to, 45 C.F.R. s.  
 544 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a)(3),  
 545 and this section.

546 (6) The Financial Services Commission may adopt rules to  
 547 implement this section.

548 Section 10. Subsection (4) is added to section 627.669,  
 549 Florida Statutes, to read:

550 627.669 Optional coverage required for substance abuse  
 551 impaired persons; exception.—

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552 (4) This section is repealed January 1, 2021.

553 Section 11. Effective January 1, 2021, present subsection  
 554 (17) of section 627.6699, Florida Statutes, is redesignated as  
 555 subsection (18), and a new subsection (17) is added to that  
 556 section, to read:

557 627.6699 Employee Health Care Access Act.—

558 (17) MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS.—A health  
 559 benefit plan that provides coverage to employees of a small  
 560 employer is subject to s. 627.4193.

561 Section 12. Effective January 1, 2021, subsection (9) is  
 562 added to section 641.26, Florida Statutes, to read:

563 641.26 Annual and quarterly reports.—

564 (9) Every health maintenance organization issuing,  
 565 delivering, or issuing for delivery contracts providing  
 566 comprehensive major medical coverage shall annually submit an  
 567 affidavit to the office attesting to compliance with the  
 568 requirements of s. 627.4193. The office may adopt rules to  
 569 implement this subsection.

570 Section 13. Effective January 1, 2021, subsection (48) is  
 571 added to section 641.31, Florida Statutes, to read:

572 641.31 Health maintenance contracts.—

573 (48) All health maintenance contracts that provide  
 574 comprehensive medical coverage must comply with the coverage  
 575 provisions of s. 627.4193. The commission may adopt rules to  
 576 implement this subsection.

577 Section 14. Section 786.1516, Florida Statutes, is created  
 578 to read:

579 786.1516 Immunity for providing assistance in a suicide  
 580 emergency.—

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

582 (a) "Emergency care" means assistance or advice offered to  
 583 avoid, mitigate, or attempt to mitigate the effects of a suicide  
 584 emergency.

585 (b) "Suicide emergency" means an occurrence that reasonably  
 586 indicates an individual is at risk of dying or attempting to die  
 587 by suicide.

588 (2) A person who provides emergency care at or near the  
 589 scene of a suicide emergency, gratuitously and in good faith, is  
 590 not liable for any civil damages or penalties as a result of any  
 591 act or omission by the person providing the emergency care  
 592 unless the person is grossly negligent or caused the suicide  
 593 emergency.

594 Section 15. Present subsection (28) of section 1002.33,  
 595 Florida Statutes, is redesignated as subsection (29), and a new  
 596 subsection (28) is added to that section, to read:

597 1002.33 Charter schools.—

598 (28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH  
 599 SUICIDE AWARENESS AND PREVENTION.—

600 (a) By October 1, 2020, every charter school must:

601 1. Incorporate 2 hours of training offered pursuant to s.  
 602 1012.583. The training must be included in the existing  
 603 continuing education or inservice training requirements for  
 604 instructional personnel and may not add to the total hours  
 605 currently required by the department. Every charter school must  
 606 require all instructional personnel to participate.

607 2. Have at least two school-based staff members certified  
 608 or otherwise deemed competent in the use of a suicide screening  
 609 instrument approved under s. 1012.583(1) and have a policy to

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610 use such suicide risk screening instrument to evaluate a  
 611 student's suicide risk before requesting the initiation of, or  
 612 initiating, an involuntary examination due to concerns about  
 613 that student's suicide risk.

614 (b) Every charter school must report its compliance with  
 615 this subsection to the department.

616 Section 16. Subsections (2) and (3) of section 1012.583,  
 617 Florida Statutes, are amended to read:

618 1012.583 Continuing education and inservice training for  
 619 youth suicide awareness and prevention.—

620 (2) By October 1, 2020, every public school must ~~A school~~  
 621 shall be considered a "Suicide Prevention Certified School" if  
 622 it:

623 (a) Incorporate ~~incorporates~~ 2 hours of training offered  
 624 pursuant to this section. The training must be included in the  
 625 existing continuing education or inservice training requirements  
 626 for instructional personnel and may not add to the total hours  
 627 currently required by the department. Every public school A  
 628 school that chooses to participate in the training must require  
 629 all instructional personnel to participate.

630 (b) ~~Have Has~~ at least two school-based staff members  
 631 certified or otherwise deemed competent in the use of a suicide  
 632 screening instrument approved under subsection (1) and ~~have has~~  
 633 a policy to use such suicide risk screening instrument to  
 634 evaluate a student's suicide risk before requesting the  
 635 initiation of, or initiating, an involuntary examination due to  
 636 concerns about that student's suicide risk.

637 (3) Every public school A school that meets the criteria in  
 638 subsection ~~(2)~~ must report its compliance with this section to

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639 the department. ~~The department shall keep an updated record of~~  
 640 ~~all Suicide Prevention Certified Schools and shall post the list~~  
 641 ~~of these schools on the department's website. Each school shall~~  
 642 ~~also post on its own website whether it is a Suicide Prevention~~  
 643 ~~Certified School, and each school district shall post on its~~  
 644 ~~district website a list of the Suicide Prevention Certified~~  
 645 ~~Schools in that district.~~

646 Section 17. Paragraphs (a) and (c) of subsection (3) of  
 647 section 394.495, Florida Statutes, are amended to read:

648 394.495 Child and adolescent mental health system of care;  
 649 programs and services.—

650 (3) Assessments must be performed by:

651 (a) A professional as defined in s. 394.455(5), (7), (33)  
 652 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

653 (c) A person who is under the direct supervision of a  
 654 qualified professional as defined in s. 394.455(5), (7), (33)  
 655 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under  
 656 chapter 491.

657 Section 18. Subsection (5) of section 394.496, Florida  
 658 Statutes, is amended to read:

659 394.496 Service planning.—

660 (5) A professional as defined in s. 394.455(5), (7), (33)  
 661 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under  
 662 chapter 491 must be included among those persons developing the  
 663 services plan.

664 Section 19. Subsection (6) of section 394.9085, Florida  
 665 Statutes, is amended to read:

666 394.9085 Behavioral provider liability.—

667 (6) For purposes of this section, the terms "detoxification

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668 services," "addictions receiving facility," and "receiving  
 669 facility" have the same meanings as those provided in ss.  
 670 397.311(26) (a)4., 397.311(26) (a)1., and 394.455(40) ~~394.455(39)~~,  
 671 respectively.

672 Section 20. Paragraph (b) of subsection (1) of section  
 673 409.972, Florida Statutes, is amended to read:

674 409.972 Mandatory and voluntary enrollment.—

675 (1) The following Medicaid-eligible persons are exempt from  
 676 mandatory managed care enrollment required by s. 409.965, and  
 677 may voluntarily choose to participate in the managed medical  
 678 assistance program:

679 (b) Medicaid recipients residing in residential commitment  
 680 facilities operated through the Department of Juvenile Justice  
 681 or a treatment facility as defined in s. 394.455~~(47)~~.

682 Section 21. Paragraph (e) of subsection (4) of section  
 683 464.012, Florida Statutes, is amended to read:

684 464.012 Licensure of advanced practice registered nurses;  
 685 fees; controlled substance prescribing.—

686 (4) In addition to the general functions specified in  
 687 subsection (3), an advanced practice registered nurse may  
 688 perform the following acts within his or her specialty:

689 (e) A psychiatric nurse, who meets the requirements in s.  
 690 394.455(36) ~~s. 394.455(35)~~, within the framework of an  
 691 established protocol with a psychiatrist, may prescribe  
 692 psychotropic controlled substances for the treatment of mental  
 693 disorders.

694 Section 22. Subsection (7) of section 744.2007, Florida  
 695 Statutes, is amended to read:

696 744.2007 Powers and duties.—

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697 (7) A public guardian may not commit a ward to a treatment  
698 facility, as defined in s. 394.455~~(47)~~, without an involuntary  
699 placement proceeding as provided by law.

700 Section 23. The Office of Program Policy Analysis and  
701 Government Accountability shall perform a review of suicide  
702 prevention programs and efforts made by other states and make  
703 recommendations on their applicability to this state. The office  
704 shall submit a report containing the findings and  
705 recommendations to the President of the Senate and the Speaker  
706 of the House of Representatives by January 1, 2021.

707 Section 24. Except as otherwise expressly provided in this  
708 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,

A handwritten signature in cursive script that reads "Lauren Book".

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](http://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)*

Topic Mental Health

*Amendment Barcode (if applicable)*

Name Ken "cop-CHEN-ski" Kopczynski

Job Title Lobbyist

Address 300 East Brevard Street

Phone 222-3329

*Street*

Talla

FL

32301

Email ken@flpba.org

*City*

*State*

*Zip*

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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 7020

INTRODUCER: Infrastructure and Security Committee

SUBJECT: Emergency Staging Areas

DATE: February 19, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>IS Submitted as Committee Bill</b>
1.	<u>McAuliffe</u>	<u>Hrdlicka</u>	<u>ATD</u>	<b>Recommend: Favorable</b>
2.	<u>McAuliffe</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

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**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.<sup>1</sup> 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.<sup>2</sup> 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.”<sup>3</sup> Similarly, among other related authority, political subdivisions are authorized to obtain and distribute equipment, materials, and supplies for emergency management purposes.<sup>4</sup>

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.<sup>5</sup>

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.<sup>6, 7</sup>

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<sup>1</sup> Section 252.32(1)(b), F.S.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> Section 252.38(3), F.S.

<sup>5</sup> See DEM email to Senate Infrastructure and Security Committee staff November 14, 2019 (copy on file in the Senate Infrastructure and Security Committee).

<sup>6</sup> See the FDOT email to Senate Infrastructure and Security Committee staff November 18, 2019 (copy on file in the Senate Infrastructure and Security Committee).

<sup>7</sup> 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.<sup>8</sup>

### **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.”<sup>9</sup> 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.<sup>10</sup>

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).<sup>11</sup>

### **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.

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<sup>8</sup> Telephone conversation between Senate Infrastructure and Security Committee staff and Leon County Emergency Management staff November 12, 2019.

<sup>9</sup> Section 338.221(6), F.S.

<sup>10</sup> 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).

<sup>11</sup> 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.<sup>12</sup> 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,<sup>13</sup> and notifying business owners of all of their rights.<sup>14</sup> 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<sup>15</sup> and reasonable costs incurred, including appraisal fees and accountant fees.<sup>16</sup>

### **The Florida Transportation Code**

The Florida Transportation Code (code)<sup>17</sup> 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<sup>18</sup> or serve as staging areas for the FDOT's construction and maintenance contractors.<sup>19</sup> The sites may provide additional or overflow parking for both commercial motor vehicles and other vehicular traffic<sup>20</sup> or serve other functions, such as making fuel or food services available to travelers.<sup>21</sup>

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<sup>12</sup> Section 73.015, F.S.

<sup>13</sup> Section 73.0511, F.S.

<sup>14</sup> Section 73.015(2), F.S.

<sup>15</sup> Section 73.092, F.S.

<sup>16</sup> Section 73.091, F.S.

<sup>17</sup> Chapters 334-339, 348, and 349 and ss. 332.003-332.007, 351.35, 351.36 351.37, and 861.011, F.S.

<sup>18</sup> Section 334.044(21), F.S.

<sup>19</sup> Section 337.11(1), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> 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.<sup>22</sup>

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.<sup>23</sup>

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.

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<sup>22</sup> The county population is as determined by the most recent official state estimate pursuant to s. 186.901, F.S.

<sup>23</sup> 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

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

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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

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

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59 located.

60 (2) The department may acquire property and property rights  
61 necessary for such staging areas as provided in s. 338.04.

62 (3) The department may authorize other uses of a staging  
63 area as provided in the Florida Transportation Code, including,  
64 but not limited to, for commercial motor vehicle parking to  
65 comply with federal hours-of-service off-duty requirements or  
66 sleeper berth requirements and for other vehicular parking to  
67 provide rest for drivers.

68 (4) Staging area projects must be included in the work  
69 program developed by the department pursuant to s. 339.135.

70 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

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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.

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

---

Senator Tom Lee  
Florida Senate, District 20

**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		<b>ED Submitted as Committee Bill</b>
1.	Proctor	Miller	IS	<b>Fav/CS</b>
2.	Underhill	Kynoch	AP	<b>Fav/CS</b>

**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.<sup>1</sup> 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.<sup>2</sup> The State Board of Education (SBE or state board) is required to adopt rules establishing the requirements for the SESIR.<sup>3</sup>

<sup>1</sup> Section 1006.07(9), F.S.

<sup>2</sup> 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).

<sup>3</sup> *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).<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> 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).<sup>8</sup>

#### 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.<sup>9</sup>

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.<sup>10</sup>

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.<sup>11</sup>

#### 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

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<sup>4</sup> Section 1006.09(6), F.S.

<sup>5</sup> Section 1001.212(8), F.S.

<sup>6</sup> Section 1001.42(13)(b), F.S.

<sup>7</sup> Sections 1006.13, 1006.135, 1006.147, and 1006.148, F.S.

<sup>8</sup> Section 1006.147, F.S.

<sup>9</sup> Section 1006.07(4), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 1006.1493, F.S.

administration, and law enforcement.<sup>12</sup> The Office of Safe Schools (OSS) developed the Comprehensive School Threat Assessment Guidelines (CSTAG)<sup>13</sup> 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.<sup>14</sup>

#### 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.<sup>15</sup>

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.<sup>16</sup>

#### 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.<sup>17</sup> 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.<sup>18</sup>

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.<sup>19</sup> School districts may still operate their own "diversion programs" that address non-criminal conduct, such as Student Code of Conduct violations and other misbehavior.<sup>20</sup>

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<sup>12</sup> Section 1006.07(7), F.S.

<sup>13</sup> 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).

<sup>14</sup> Section 1001.212(12)(a)6., F.S.

<sup>15</sup> 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).

<sup>16</sup> Section 943.082(6), F.S.

<sup>17</sup> 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).

<sup>18</sup> Section 985.12, F.S.

<sup>19</sup> *Id.*

<sup>20</sup> Commission, *supra* note 17, at 133.

Currently, 58 school districts do not offer any form of school-based diversion program.<sup>21</sup> 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.<sup>22</sup>

### ***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

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<sup>21</sup> 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).

<sup>22</sup> *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.<sup>23</sup> These options include:

- Establishing a school resource officer (SRO) program, through a cooperative agreement with law enforcement agencies. SROs are certified law enforcement officers<sup>24</sup> who must meet specified screening requirements<sup>25</sup> 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<sup>26</sup> to employ as a school security guard an individual who holds a Class “D” and Class “G” license<sup>27</sup> 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.

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<sup>23</sup> Section 1006.12, F.S.

<sup>24</sup> “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.

<sup>25</sup> SROs must undergo criminal background checks, drug testing, and a psychological evaluation. Section 1006.12(1)(a), F.S.

<sup>26</sup> “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.

<sup>27</sup> License requirements are specified in chapter 493.

### Coach Aaron Feis Guardian Program

The guardian program was established in 2018<sup>28</sup> as an option for school districts to meet the safe-school officer requirements in law.<sup>29</sup> 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.<sup>30</sup>

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<sup>31</sup> 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.<sup>32</sup>

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:<sup>33</sup>

- Hold a valid concealed weapon license.<sup>34</sup>
- 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<sup>35</sup> 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<sup>36</sup> and the sheriff's office.
- Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.

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<sup>28</sup> Section 26, ch. 2018-3, Laws of Fla.

<sup>29</sup> Section 1006.12, F.S.

<sup>30</sup> Section 30.15(1)(k), F.S.

<sup>31</sup> *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.

<sup>32</sup> 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.

<sup>33</sup> Section 30.15(1)(k)2., F.S.

<sup>34</sup> Section 790.06, F.S.

<sup>35</sup> Chapter 490 of the Florida Statutes governs licensure for psychological services.

<sup>36</sup> 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.<sup>37</sup>

### ***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.

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<sup>37</sup> *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.<sup>38</sup>

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<sup>38</sup> 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.<sup>39</sup> 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.<sup>40</sup>

The OSS is responsible for providing data to support the evaluation of mental health services by the institute.<sup>41</sup>

### 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.<sup>42</sup> 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.<sup>43</sup>

### 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.<sup>44</sup> A total of \$75 million was appropriated to school districts through the mental health assistance allocation for the 2019-2020 school year.<sup>45</sup> 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.<sup>46</sup>

The plans must include elements such as:<sup>47</sup>

- 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.

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<sup>39</sup> Section 1004.44, F.S.

<sup>40</sup> Section 1004.44(3), F.S.

<sup>41</sup> Section 1001.212(7), F.S.

<sup>42</sup> 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).

<sup>43</sup> Section 1003.5716(2), F.S.

<sup>44</sup> Section 1011.62(16), F.S.

<sup>45</sup> Ch. 2019-115, Laws of Fla., s. 2, Specific Appropriation 93.

<sup>46</sup> *Supra*, note 45.

<sup>47</sup> 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.<sup>48</sup>

#### 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

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<sup>48</sup> 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.<sup>49</sup>

### 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.<sup>50</sup> 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.<sup>51</sup>

The OSS is required to provide ongoing professional development opportunities to school district personnel.<sup>52</sup>

### *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:

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<sup>49</sup> Section 1002.33(16), F.S. The K-20 Education Code includes chapters 1000-1013 of the Florida Statutes.

<sup>50</sup> 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).

<sup>51</sup> 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.

<sup>52</sup> 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.<sup>53</sup> The commission submitted its initial report to the Governor and the Legislature on January 2, 2019,<sup>54</sup> and its second report on November 1, 2019.<sup>55</sup> 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.<sup>56</sup>

<sup>53</sup> Section 943.687(3), F.S.

<sup>54</sup> Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited January 29, 2020).

<sup>55</sup> 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.

<sup>56</sup> 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

Senate	.	House
Comm: RCS	.	
02/21/2020	.	
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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



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11 governing boards in complying with s. 1006.12. A sheriff must,  
12 at a minimum, provide access to a Coach Aaron Feis Guardian  
13 Program training to aid in the prevention or abatement of active  
14 assailant incidents on school premises, as required under this  
15 paragraph. Persons certified as Feis guardian program certified  
16 school guardians or Feis guardian program certified school  
17 security guards pursuant to this paragraph do not have ~~no~~  
18 authority to act in any law enforcement capacity except to the  
19 extent necessary to prevent or abate an active assailant  
20 incident.

21 1.a. If a local school board has voted by a majority to  
22 implement a Feis guardian program, the sheriff in that county  
23 shall establish a Feis guardian program to provide training,  
24 pursuant to subparagraph 2., to school district or charter  
25 school employees directly; through a contract with an entity  
26 selected by the local sheriff, provided that the local sheriff  
27 oversees, supervises, and certifies all aspects of the contract  
28 governing the Feis guardian program for the local jurisdiction;  
29 ~~either directly or~~ through a contract with another sheriff's  
30 office that has established a Feis guardian program; or through  
31 any combination thereof. To facilitate effective training and  
32 emergency response in the event of an active assailant  
33 situation, a sheriff who contracts with one or more county  
34 sheriffs to provide Feis guardian program training and  
35 certification for the local school district and charter schools  
36 within its county jurisdiction shall notify, in writing, the  
37 local district school superintendent and charter school  
38 administrators of all county-specific protocols incorporated  
39 into the contracted Feis guardian program training and



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40 certification requirements.

41       b. A charter school governing board in a school district  
42 that has not voted, or has declined, to implement a Feis  
43 guardian program may request the sheriff in the county to  
44 establish a Feis guardian program for the purpose of training  
45 the charter school employees. If the county sheriff denies the  
46 request, the charter school governing board may contract with a  
47 sheriff that has established a Feis guardian program to provide  
48 such training. The charter school governing board must notify,  
49 in writing, the superintendent and the sheriff in the charter  
50 school's county of the contract prior to its execution.

51       c. The sheriff conducting the Feis guardian program  
52 training pursuant to subparagraph 2. shall will be reimbursed by  
53 the Department of Education for screening-related and training-  
54 related costs for Feis guardian program certified school  
55 guardians and Feis guardian program certified school security  
56 guards as provided in s. 1006.12(3) and (4), respectively, and  
57 for providing a one-time stipend of \$500 to each Feis guardian  
58 program certified school guardian who participates in the Feis  
59 ~~school~~ guardian program as an employee of a school district or  
60 charter school.

61       2. A sheriff who establishes a Feis guardian training  
62 program shall consult with the Department of Law Enforcement on  
63 programmatic guiding principles, practices, and resources, and  
64 shall certify, without the power of arrest, Feis guardian  
65 program certified as school guardians, ~~without the power of~~  
66 ~~arrest, school employees,~~ as specified in s. 1006.12(3) and Feis  
67 guardian program school security guards as specified in s.  
68 1006.12(4), who:



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69 a. Hold a valid license issued under s. 790.06, applicable  
70 to district or school employees serving as Feis guardian program  
71 certified school guardians pursuant to s. 1006.12(3); or hold a  
72 valid Class "D" and Class "G" license issued under chapter 493,  
73 applicable to individuals contracted to serve as Feis guardian  
74 program certified school security guards under s. 1006.12(4).

75 b. Complete a 144-hour training program, consisting of 12  
76 hours of certified nationally recognized diversity training and  
77 132 total hours of comprehensive firearm safety and proficiency  
78 training, conducted by Criminal Justice Standards and Training  
79 Commission-certified instructors who hold active instructional  
80 certifications, which must include:

81 (I) Eighty hours of firearms instruction based on the  
82 Criminal Justice Standards and Training Commission's Law  
83 Enforcement Academy training model, which must include at least  
84 10 percent but no more than 20 percent more rounds fired than  
85 associated with academy training. Program participants must  
86 achieve an 85 percent pass rate on the firearms training.

87 (II) Sixteen hours of instruction in precision pistol.  
88 Training must include night and low-light shooting conditions.

89 (III) Eight hours of discretionary shooting instruction  
90 using state-of-the-art simulator exercises.

91 (IV) Eight hours of instruction in active shooter or  
92 assailant scenarios.

93 (V) Eight hours of instruction in defensive tactics.

94 (VI) Twelve hours of instruction in legal issues.

95 c. Submit to and pass a psychological evaluation  
96 administered by a licensed professional psychologist licensed  
97 under chapter 490 and designated by the Department of Law



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98 ~~Enforcement~~ and submit the results of the evaluation to the  
99 sheriff's office. The sheriff's office must review and approve  
100 the results of each applicant's psychological evaluation before  
101 accepting the applicant into the Feis guardian program. The  
102 Department of Law Enforcement is authorized to provide the  
103 sheriff's office with mental health and substance abuse data for  
104 compliance with this paragraph.

105 d. Submit to and pass an initial drug test and subsequent  
106 random drug tests in accordance with the requirements of s.  
107 112.0455 and the sheriff's office. The sheriff's office must  
108 review and approve the results of each applicant's drug tests  
109 before accepting the applicant into the Feis guardian program.

110 e. Successfully complete ongoing training conducted by a  
111 Criminal Justice Standards and Training Commission-certified  
112 instructor who holds an active instructional certification,  
113 weapon inspection, and firearm qualification on at least an  
114 annual basis, as required by the sheriff's office.

115  
116 The sheriff who conducts the Feis guardian program training  
117 pursuant to this paragraph shall issue a Feis ~~school~~ guardian  
118 program certificate to individuals who meet the requirements of  
119 this section to the satisfaction of the sheriff, and shall  
120 maintain documentation of weapon and equipment inspections, as  
121 well as the training, certification, inspection, and  
122 qualification records of each Feis guardian program certified  
123 school guardian and Feis guardian program certified school  
124 security guard certified by the sheriff. An individual who is  
125 certified under this paragraph may serve as a Feis guardian  
126 program certified school guardian under s. 1006.12(3) or a Feis



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127 guardian program certified school security guard under s.  
128 1006.12(4) only if he or she is appointed by the applicable  
129 district school superintendent ~~school district superintendent~~ or  
130 charter school administrator ~~principal~~.

131 Section 2. Effective October 1, 2020, paragraph (c) is  
132 added to subsection (2) of section 943.082, Florida Statutes, to  
133 read:

134 943.082 School Safety Awareness Program.—

135 (2) The reporting tool must notify the reporting party of  
136 the following information:

137 (c) That, if following investigation, it is determined that  
138 a person knowingly submitted a false tip through FortifyFL, the  
139 IP address of the device on which the tip was submitted will be  
140 provided to law enforcement agencies for further investigation  
141 and the reporting party may be subject to criminal penalties  
142 under s. 837.05. In all other circumstances, unless the  
143 reporting party has chosen to disclose his or her identity, the  
144 report must remain anonymous.

145 Section 3. Effective upon becoming law, paragraph (a) of  
146 subsection (2) of section 943.687, Florida Statutes, is amended  
147 to read:

148 943.687 Marjory Stoneman Douglas High School Public Safety  
149 Commission.—

150 (2) (a) 1. The commission shall convene no later than June 1,  
151 2018, and shall be composed of 16 members. Five members shall be  
152 appointed by the President of the Senate, five members shall be  
153 appointed by the Speaker of the House of Representatives, and  
154 five members shall be appointed by the Governor. From the  
155 members of the commission, the Governor shall appoint the chair.



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156 Appointments must be made by April 30, 2018. The Commissioner of  
157 the Department of Law Enforcement shall serve as a member of the  
158 commission. The Secretary of Children and Families, the  
159 Secretary of Juvenile Justice, the Secretary of Health Care  
160 Administration, and the Commissioner of Education shall serve as  
161 ex officio, nonvoting members of the commission. Members shall  
162 serve at the pleasure of the officer who appointed the member. A  
163 vacancy on the commission shall be filled in the same manner as  
164 the original appointment.

165 2. In addition to the membership requirements of  
166 subparagraph 1., beginning June 1, 2020, the commission shall  
167 include three additional members selected from among the state's  
168 actively serving district school superintendents, school  
169 principals, and classroom teachers. The additional members must  
170 be appointed by May 30, 2020, one each by the Governor, the  
171 President of the Senate, and the Speaker of the House of  
172 Representatives. Thereafter, to the extent possible, future  
173 appointments to fill vacancies or replace members of the  
174 commission must give consideration to achieving an equal balance  
175 of school district, law enforcement, and health care  
176 professional representation which reflects the cultural  
177 diversity of the state.

178 Section 4. Paragraphs (c) and (f) of subsection (2) of  
179 section 985.12, Florida Statutes, are amended to read:

180 985.12 Civil citation or similar prearrest diversion  
181 programs.—

182 (2) JUDICIAL CIRCUIT CIVIL CITATION OR SIMILAR PREARREST  
183 DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

184 (c) The state attorney of each circuit shall operate a





185 civil citation or similar prearrest diversion program in each  
186 circuit. A sheriff, police department, county, municipality,  
187 locally authorized entity, or public or private educational  
188 institution may continue to operate an independent civil  
189 citation or similar prearrest diversion program that is in  
190 operation as of October 1, 2018, if the independent program is  
191 reviewed by the state attorney of the applicable circuit and he  
192 or she determines that the independent program is substantially  
193 similar to the civil citation or similar prearrest diversion  
194 program developed by the circuit. If the state attorney  
195 determines that the independent program is not substantially  
196 similar to the civil citation or similar prearrest diversion  
197 program developed by the circuit, the operator of the  
198 independent diversion program may revise the program and the  
199 state attorney may conduct an additional review of the  
200 independent program. The department and the state attorney of  
201 each judicial circuit shall monitor and enforce compliance with  
202 school-based diversion program requirements.

203 (f) Each civil citation or similar prearrest diversion  
204 program shall enter the appropriate youth data into the Juvenile  
205 Justice Information System Prevention Web within 7 days after  
206 the admission of the youth into the program. Beginning in fiscal  
207 year 2021-2022, law enforcement officers must have field access  
208 to civil citation and prearrest diversion information.

209 Section 5. Subsection (9) of section 1001.11, Florida  
210 Statutes, is amended to read:

211 1001.11 Commissioner of Education; other duties.—

212 (9) With the intent of ensuring safe learning and teaching  
213 environments, the commissioner shall oversee compliance with



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214 education-related health, the safety, welfare, and security  
215 requirements of law the Marjory Stoneman Douglas High School  
216 Public Safety Act, chapter 2018-3, Laws of Florida, by school  
217 districts; district school superintendents; and public schools,  
218 including charter schools; and other entities or constituencies  
219 as may be applicable. The commissioner shall ~~must~~ facilitate  
220 public and nonpublic school compliance to the maximum extent  
221 provided under law, identify incidents of material  
222 noncompliance, and impose or recommend to the State Board of  
223 Education, the Governor, or the Legislature enforcement and  
224 sanctioning actions pursuant to s. 1001.42, s. 1001.51, chapter  
225 1002, and s. 1008.32, and other authority granted under law. For  
226 purposes of this subsection, s. 1001.42(13)(b), and s.  
227 1001.51(12)(b), the duties assigned to a district school  
228 superintendent apply to charter school administrative personnel  
229 as defined in s. 1012.01(3), and charter school governing boards  
230 shall designate at least one administrator to be responsible for  
231 such duties. The duties assigned to a district school board  
232 apply to a charter school governing board.

233 Section 6. Present subsections (14) and (15) of section  
234 1001.212, Florida Statutes, are redesignated as subsections (16)  
235 and (17), respectively, new subsections (14) and (15) are added  
236 to that section, and subsections (2), (4), (6), and (8) of that  
237 section are amended, to read:

238 1001.212 Office of Safe Schools.—There is created in the  
239 Department of Education the Office of Safe Schools. The office  
240 is fully accountable to the Commissioner of Education. The  
241 office shall serve as a central repository for best practices,  
242 training standards, and compliance oversight in all matters



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243 regarding school safety and security, including prevention  
244 efforts, intervention efforts, and emergency preparedness  
245 planning. The office shall:

246 (2) Provide ongoing professional development opportunities  
247 to school district and charter school personnel.

248 (4) Develop and implement a School Safety Specialist  
249 Training Program for school safety specialists appointed  
250 pursuant to s. 1006.07(6). The office shall develop the training  
251 program, which shall be based on national and state best  
252 practices on school safety and security and must include active  
253 shooter training. Training must be developed in consultation  
254 with the Florida Department of Law Enforcement and include  
255 information about federal and state laws regarding education  
256 records, medical records, data privacy, and incident reporting  
257 requirements, particularly with respect to behavioral threat  
258 assessment and emergency planning and response procedures. The  
259 office shall develop training modules in traditional or online  
260 formats. A school safety specialist certificate of completion  
261 shall be awarded to a school safety specialist who  
262 satisfactorily completes the training required by rules of the  
263 office.

264 (6) Coordinate with the Department of Law Enforcement to  
265 provide a unified search tool, known as the Florida Schools  
266 Safety Portal, ~~centralized integrated data repository and data~~  
267 analytics resources to improve access to timely, complete, and  
268 accurate information ~~integrating data~~ from, at a minimum, ~~but~~  
269 ~~not limited to,~~ the following data sources ~~by August 1, 2019:~~

- 270 (a) Social media Internet posts;  
271 (b) Department of Children and Families;



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- 272 (c) Department of Law Enforcement;
- 273 (d) Department of Juvenile Justice;
- 274 (e) Mobile suspicious activity reporting tool known as
- 275 FortifyFL;
- 276 (f) School ~~environmental~~ safety incident reports collected
- 277 under subsection (8); and
- 278 (g) Local law enforcement.

279  
280 Data that is exempt or confidential and exempt from public  
281 records requirements retains its exempt or confidential and  
282 exempt status when incorporated into the centralized integrated  
283 data repository. To maintain the confidentiality requirements  
284 attached to the information provided to the centralized  
285 integrated data repository by the various state and local  
286 agencies, data governance and security shall ensure compliance  
287 with all applicable state and federal data privacy requirements  
288 through the use of user authorization and role-based security,  
289 data anonymization and aggregation and auditing capabilities. To  
290 maintain the confidentiality requirements attached to the  
291 information provided to the centralized integrated data  
292 repository by the various state and local agencies, each source  
293 agency providing data to the repository shall be the sole  
294 custodian of the data for the purpose of any request for  
295 inspection or copies thereof under chapter 119. The department  
296 shall only allow access to data from the source agencies in  
297 accordance with rules adopted by the respective source agencies  
298 and the requirements of the Federal Bureau of Investigation  
299 Criminal Justice Information Services security policy, where  
300 applicable.



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301           (8) Oversee, facilitate, and coordinate district and school  
302 compliance with school safety incident reporting requirements in  
303 accordance with rules adopted by the state board enacting the  
304 school safety incident reporting requirements of this  
305 subsection, s. 1006.07(9), and other statutory safety incident  
306 reporting requirements. The office shall:

307           (a) Provide technical assistance to school districts and  
308 charter school governing boards and administrators for school  
309 environmental safety incident reporting as required under s.  
310 1006.07(9).

311           (b) ~~The office shall~~ Collect data through school  
312 environmental safety incident reports on incidents involving any  
313 person which occur on school premises, on school transportation,  
314 and at off-campus, school-sponsored events.

315           (c) Review and evaluate safety incident reports of each  
316 ~~the office shall review and evaluate~~ school district and charter  
317 school and other entities, as may be required by law, reports to  
318 ensure compliance with reporting requirements. The office shall  
319 timely notify the commissioner of all incidents of material  
320 noncompliance for purposes of invoking the commissioner's  
321 responsibilities provided under s. 1001.11(9). Upon notification  
322 by the commissioner department that a superintendent or charter  
323 school administrator has, based on clear and convincing  
324 evidence, failed to comply with the requirements of s.  
325 1006.07(9), the district school board or charter school  
326 governing board, as applicable, shall withhold further payment  
327 of his or her salary as authorized under s. 1001.42(13)(b) and  
328 impose other appropriate sanctions that the commissioner or  
329 state board by law may impose, pending demonstration of full



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330 compliance.

331 (14) Maintain a current directory of public and private  
332 school-based diversion programs and cooperate with each judicial  
333 circuit and the Department of Juvenile Justice to facilitate  
334 their efforts to monitor and enforce each governing body's  
335 compliance with s. 985.12.

336 (15) Develop, in coordination with the Division of  
337 Emergency Management, other federal, state, and local law  
338 enforcement agencies, fire and rescue agencies, and first  
339 responder agencies, a model emergency event family reunification  
340 plan for use by child care facilities, public K-12 schools, and  
341 public postsecondary institutions that are closed or  
342 unexpectedly evacuated due to natural or manmade disasters or  
343 emergencies.

344 Section 7. Paragraph (b) of subsection (16) of section  
345 1002.33, Florida Statutes, is amended to read:

346 1002.33 Charter schools.—

347 (16) EXEMPTION FROM STATUTES.—

348 (b) Additionally, a charter school shall demonstrate and  
349 certify in its contract, and if necessary through addendum to  
350 its contract, the charter school's ~~be in~~ compliance with the  
351 following statutes:

352 1. Section 286.011, relating to public meetings and  
353 records, public inspection, and criminal and civil penalties.

354 2. Chapter 119, relating to public records.

355 3. Section 1003.03, relating to the maximum class size,  
356 except that the calculation for compliance pursuant to s.  
357 1003.03 shall be the average at the school level.

358 4. Section 1012.22(1)(c), relating to compensation and



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359 salary schedules.

360 5. Section 1012.33(5), relating to workforce reductions.

361 6. Section 1012.335, relating to contracts with  
362 instructional personnel hired on or after July 1, 2011.

363 7. Section 1012.34, relating to the substantive  
364 requirements for performance evaluations for instructional  
365 personnel and school administrators.

366 8. Section 1006.12, relating to safe-school officers.

367 9. Section 1006.07(7), relating to threat assessment teams.

368 10. Section 1006.07(9), relating to school ~~Environmental~~  
369 safety incident reporting.

370 11. Section 1006.1493, relating to the Florida Safe Schools  
371 Assessment Tool.

372 12. Section 1006.07(6)(c), relating to adopting an active  
373 assailant response plan.

374 13. Section 943.082(4)(b), relating to the mobile  
375 suspicious activity reporting tool.

376 14. Section 1012.584, relating to youth mental health  
377 awareness and assistance training.

378 15. Section 1006.07(4), relating to emergency drills and  
379 emergency procedures.

380 16. Section 1006.07(2)(n), relating to criteria for  
381 assigning a student to a civil citation or similar prearrest  
382 diversion program.

383 Section 8. Paragraph (r) is added to subsection (1) of  
384 section 1002.421, Florida Statutes to read:

385 1002.421 State school choice scholarship program  
386 accountability and oversight.—

387 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private



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388 school participating in an educational scholarship program  
389 established pursuant to this chapter must be a private school as  
390 defined in s. 1002.01(2) in this state, be registered, and be in  
391 compliance with all requirements of this section in addition to  
392 private school requirements outlined in s. 1002.42, specific  
393 requirements identified within respective scholarship program  
394 laws, and other provisions of Florida law that apply to private  
395 schools, and must:

396 (r) Comply with section 1006.07(2)(n), Florida Statutes.

397  
398 The department shall suspend the payment of funds to a private  
399 school that knowingly fails to comply with this subsection, and  
400 shall prohibit the school from enrolling new scholarship  
401 students, for 1 fiscal year and until the school complies. If a  
402 private school fails to meet the requirements of this subsection  
403 or has consecutive years of material exceptions listed in the  
404 report required under paragraph (q), the commissioner may  
405 determine that the private school is ineligible to participate  
406 in a scholarship program.

407 Section 9. Paragraph (d) is added to subsection (2) of  
408 section 1003.5716, Florida Statutes, to read:

409 1003.5716 Transition to postsecondary education and career  
410 opportunities.—All students with disabilities who are 3 years of  
411 age to 21 years of age have the right to a free, appropriate  
412 public education. As used in this section, the term "IEP" means  
413 individual education plan.

414 (2) Beginning not later than the first IEP to be in effect  
415 when the student attains the age of 16, or younger if determined  
416 appropriate by the parent and the IEP team, the IEP must include





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417 the following statements that must be updated annually:

418 (d) Beginning in the 2021-2022 school year, a statement of  
419 post-high school performance expectations which includes a  
420 proposed transition plan that facilitates continuity of care and  
421 coordination of any behavioral health services needed to assist  
422 the student in reaching those expectations. The statement must  
423 also specify parent, student, and agency roles and  
424 responsibilities pertaining to the provision and funding of  
425 specified transition services, as applicable.

426 Section 10. Effective upon becoming law, subsection (5) is  
427 added to section 1004.44, Florida Statutes, to read:

428 1004.44 Louis de la Parte Florida Mental Health Institute.—  
429 There is established the Louis de la Parte Florida Mental Health  
430 Institute within the University of South Florida.

431 (5) In consultation with the Department of Children and  
432 Families, the Department of Juvenile Justice, and the Department  
433 of Education, the institute shall convene a workgroup of  
434 practitioners and experts to review, evaluate, and provide  
435 implementation guidance on the mental health-related findings  
436 and recommendations of the Marjory Stoneman Douglas High School  
437 Public Safety Commission, as approved in reports submitted  
438 pursuant to s. 943.687. The workgroup shall analyze, evaluate,  
439 and identify regulatory or legislative actions necessary to  
440 facilitate implementation of each recommendation. By August 1,  
441 2020, the institute shall submit to the Governor, the President  
442 of the Senate, and the Speaker of the House of Representatives  
443 an initial summary report of activities, specific policy and  
444 budget recommendations, including draft legislation and  
445 associated fiscal impact statements, and other information and



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446 policy or administrative recommendations to improve the state's  
447 mental health system of care. The institute must continue to  
448 monitor commission activities and coordinate with agency  
449 partners to advise them on implementation activities, and may  
450 submit subsequent reports and recommendations on an annual basis  
451 or as requested. This subsection shall expire July 1, 2024.

452       Section 11. Paragraph (a) of subsection (4), paragraph (a)  
453 of subsection (6), paragraph (a) of subsection (7), and  
454 subsection (9) of section 1006.07, Florida Statutes, are  
455 amended, and paragraph (n) of subsection (2), paragraph (d) of  
456 subsection (4), and subsection (10) are added to that section,  
457 to read:

458       1006.07 District school board duties relating to student  
459 discipline and school safety.—The district school board shall  
460 provide for the proper accounting for all students, for the  
461 attendance and control of students at school, and for proper  
462 attention to health, safety, and other matters relating to the  
463 welfare of students, including:

464       (2) CODE OF STUDENT CONDUCT.—Adopt a code of student  
465 conduct for elementary schools and a code of student conduct for  
466 middle and high schools and distribute the appropriate code to  
467 all teachers, school personnel, students, and parents, at the  
468 beginning of every school year. Each code shall be organized and  
469 written in language that is understandable to students and  
470 parents and shall be discussed at the beginning of every school  
471 year in student classes, school advisory council meetings, and  
472 parent and teacher association or organization meetings. Each  
473 code shall be based on the rules governing student conduct and  
474 discipline adopted by the district school board and shall be



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475 made available in the student handbook or similar publication.  
476 Each code shall include, but is not limited to:

477 (n) Criteria for assigning a student to a civil citation or  
478 similar prearrest diversion program that is an alternative to  
479 expulsion or referral to law enforcement agencies. All civil  
480 citation or similar prearrest diversion programs must comply  
481 with s. 985.12.

482 (4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

483 (a) Formulate and prescribe policies and procedures, in  
484 consultation with the appropriate public safety agencies, for  
485 emergency drills and for actual emergencies, including, but not  
486 limited to, fires, natural disasters, active shooter and hostage  
487 situations, and bomb threats, for all students and faculty at  
488 all public schools of the district comprised of grades K-12.  
489 Drills for active shooter and hostage situations shall be  
490 conducted in accordance with developmentally appropriate and  
491 age-appropriate procedures at least as often as other emergency  
492 drills. Law enforcement officers responsible for responding to  
493 the school in the event of an active assailant emergency, as  
494 determined necessary by the sheriff in coordination with the  
495 district's school safety specialist, must be physically present  
496 on campus and directly involved in the execution of active  
497 assailant emergency drills. District school board policies shall  
498 include commonly used alarm system responses for specific types  
499 of emergencies and verification by each school that drills have  
500 been provided as required by law and fire protection codes and  
501 may provide accommodations for drills conducted by ESE centers.  
502 The emergency response policy shall identify the individuals  
503 responsible for contacting the primary emergency response agency



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504 and the emergency response agency that is responsible for  
505 notifying the school district for each type of emergency.

506 (d) Consistent with subsection (10), as a component of  
507 emergency procedures, each district school board and charter  
508 school governing board must adopt, in coordination with local  
509 law enforcement agencies, an emergency event family  
510 reunification plan to reunite students and employees with their  
511 families in the event of a mass casualty or other emergency  
512 event situation.

513 (6) SAFETY AND SECURITY BEST PRACTICES.—Each district  
514 school superintendent shall establish policies and procedures  
515 for the prevention of violence on school grounds, including the  
516 assessment of and intervention with individuals whose behavior  
517 poses a threat to the safety of the school community.

518 (a) Each district school superintendent shall designate a  
519 school safety specialist for the district. The school safety  
520 specialist must be a school administrator employed by the school  
521 district or a law enforcement officer employed by the sheriff's  
522 office located in the school district. Any school safety  
523 specialist designated from the sheriff's office must first be  
524 authorized and approved by the sheriff employing the law  
525 enforcement officer. Any school safety specialist designated  
526 from the sheriff's office remains the employee of the office for  
527 purposes of compensation, insurance, workers' compensation, and  
528 other benefits authorized by law for a law enforcement officer  
529 employed by the sheriff's office. The sheriff and the school  
530 superintendent may determine by agreement the reimbursement for  
531 such costs, or may share the costs, associated with employment  
532 of the law enforcement officer as a school safety specialist.



533 The school safety specialist must earn a certificate of  
534 completion of the school safety specialist training provided by  
535 the Office of Safe Schools within 1 year after appointment and  
536 is responsible for the supervision and oversight for all school  
537 safety and security personnel, policies, and procedures in the  
538 school district. The school safety specialist shall:

539 1. Review school district policies and procedures for  
540 compliance with state law and rules, including the district's  
541 timely and accurate submission of school ~~environmental~~ safety  
542 incident reports to the department pursuant to s. 1001.212(8).

543 2. Provide the necessary training and resources to students  
544 and school district staff in matters relating to youth mental  
545 health awareness and assistance; emergency procedures, including  
546 active shooter training; and school safety and security.

547 3. Serve as the school district liaison with local public  
548 safety agencies and national, state, and community agencies and  
549 organizations in matters of school safety and security.

550 4. In collaboration with the appropriate public safety  
551 agencies, as that term is defined in s. 365.171, by October 1 of  
552 each year, conduct a school security risk assessment at each  
553 public school using the Florida Safe Schools Assessment Tool  
554 developed by the Office of Safe Schools pursuant to s.

555 1006.1493. Based on the assessment findings, the district's  
556 school safety specialist shall provide recommendations to the  
557 district school superintendent and the district school board  
558 which identify strategies and activities that the district  
559 school board should implement in order to address the findings  
560 and improve school safety and security. Each district school  
561 board must receive such findings and the school safety



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562 specialist's recommendations at a publicly noticed district  
563 school board meeting to provide the public an opportunity to  
564 hear the district school board members discuss and take action  
565 on the findings and recommendations. Each school safety  
566 specialist shall report such findings and school board action to  
567 the Office of Safe Schools within 30 days after the district  
568 school board meeting.

569 (7) THREAT ASSESSMENT TEAMS.—Each district school board  
570 shall adopt policies for the establishment of threat assessment  
571 teams at each school whose duties include the coordination of  
572 resources and assessment and intervention with individuals whose  
573 behavior may pose a threat to the safety of school staff or  
574 students consistent with the model policies developed by the  
575 Office of Safe Schools. Such policies must include procedures  
576 for referrals to mental health services identified by the school  
577 district pursuant to s. 1012.584(4), when appropriate, and  
578 procedures for behavioral threat assessments in compliance with  
579 the instrument developed pursuant to s. 1001.212(12).

580 (a) A threat assessment team shall include a sworn law  
581 enforcement officer who has undergone threat assessment training  
582 identified by the Office of Safe Schools pursuant to s.  
583 1001.212, and persons with expertise in counseling, instruction,  
584 and school administration, and law enforcement. All required  
585 members of the threat assessment team must be involved in the  
586 threat assessment process, from start to finish, including the  
587 determination of the final disposition decision. The threat  
588 assessment teams shall identify members of the school community  
589 to whom threatening behavior should be reported and provide  
590 guidance to students, faculty, and staff regarding recognition



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591 of threatening or aberrant behavior that may represent a threat  
592 to the community, school, or self. Upon the availability of the  
593 behavioral threat assessment instrument developed pursuant to s.  
594 1001.212(12), the threat assessment team shall use that  
595 instrument.

596 (9) SCHOOL ~~ENVIRONMENTAL~~ SAFETY INCIDENT REPORTING.—Each  
597 district school board shall adopt policies to ensure the  
598 accurate and timely reporting of incidents related to school  
599 safety and discipline. For purposes of s. 1001.212(8) and this  
600 subsection, incidents related to school safety and discipline  
601 include incidents reported pursuant to ss. 1006.09, 1006.13,  
602 1006.135, 1006.147, and 1006.148. The district school  
603 superintendent is responsible for school ~~environmental~~ safety  
604 incident reporting. A district school superintendent who fails  
605 to comply with this subsection is subject to the penalties  
606 specified in law, including, but not limited to, s.  
607 1001.42(13)(b) or s. 1001.51(12)(b), as applicable. The State  
608 Board of Education shall adopt rules establishing ~~the~~  
609 requirements for ~~the~~ school ~~environmental~~ safety incident  
610 reporting report.

611 (10) EMERGENCY EVENT FAMILY REUNIFICATION POLICIES AND  
612 PLANS.—By August 1, 2021, each district school board shall adopt  
613 a school district emergency event family reunification policy  
614 establishing elements and requirements for a school district  
615 emergency event family reunification plan and individual school-  
616 based emergency event family reunification plans for the purpose  
617 of reuniting students and employees with their families in the  
618 event of a mass casualty or other emergency event situation.

619 (a) School district policies and plans must be coordinated



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620 with the county sheriff and local law enforcement. School-based  
621 plans must be consistent with school board policy and the school  
622 district plan. The school board is encouraged to apply model  
623 mass casualty death notification and reunification policies and  
624 practices referenced in reports published pursuant to s. 943.687  
625 and as developed by the Office of Safe Schools.

626 (b) Minimally, plans must identify potential reunification  
627 sites and ensure a unified command at each site, identify  
628 equipment needs, provide multiple methods of communication with  
629 family members of students and staff, address training for  
630 employees, and provide multiple methods to aid law enforcement  
631 in identification of students and staff, including written  
632 backup documents.

633 Section 12. Subsection (6) of section 1006.09, Florida  
634 Statutes, is amended to read:

635 1006.09 Duties of school principal relating to student  
636 discipline and school safety.—

637 (6) Each school principal must ensure that standardized  
638 forms prescribed by rule of the State Board of Education are  
639 used to report data concerning school safety and discipline to  
640 the department through the School Environmental Safety Incident  
641 Reporting (SESIR) System. The school principal must develop a  
642 plan to verify the accuracy of reported incidents.

643 Section 13. Section 1006.12, Florida Statutes, is amended  
644 to read:

645 1006.12 Safe-school officers at each public school.—For the  
646 protection and safety of school personnel, property, students,  
647 and visitors, each district school board and district school  
648 superintendent ~~school district superintendent~~ shall partner with





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649 law enforcement agencies or security agencies to establish or  
650 assign one or more safe-school officers at each school facility  
651 within the district, including charter schools. A district  
652 school board must collaborate with charter school governing  
653 boards to facilitate charter school access to all safe-school  
654 officer options available under this section. The school  
655 district may implement one or more ~~any combination~~ of the  
656 options specified in subsections (1)-(4) to best meet the needs  
657 of the school district and charter schools.

658 (1) SWORN LAW ENFORCEMENT SCHOOL RESOURCE OFFICER.—A school  
659 district may establish school resource officer programs through  
660 a cooperative agreement with law enforcement agencies.

661 (a) Sworn law enforcement school resource officers shall  
662 undergo criminal background checks, drug testing, and a  
663 psychological evaluation and be certified law enforcement  
664 officers, as defined in s. 943.10(1), who are employed by a law  
665 enforcement agency as defined in s. 943.10(4). The powers and  
666 duties of a law enforcement officer shall continue throughout  
667 the employee's tenure as a sworn law enforcement school resource  
668 officer.

669 (b) Sworn law enforcement school resource officers shall  
670 abide by district school board policies and shall consult with  
671 and coordinate activities through the school principal, but  
672 shall be responsible to the law enforcement agency in all  
673 matters relating to employment, subject to agreements between a  
674 district school board and a law enforcement agency. Activities  
675 conducted by the sworn law enforcement school resource officer  
676 which are part of the regular instructional program of the  
677 school shall be under the direction of the school principal.



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678           (c) Sworn law enforcement school resource officers shall  
679 complete mental health crisis intervention training using a  
680 curriculum developed by a national organization with expertise  
681 in mental health crisis intervention. The training shall improve  
682 officers' knowledge and skills as first responders to incidents  
683 involving students with emotional disturbance or mental illness,  
684 including de-escalation skills to ensure student and officer  
685 safety.

686           (2) SWORN LAW ENFORCEMENT SCHOOL SAFETY OFFICER.—A school  
687 district may commission one or more sworn law enforcement school  
688 safety officers for the protection and safety of school  
689 personnel, property, and students within the school district.  
690 The district school superintendent may recommend, and the  
691 district school board may appoint, one or more sworn law  
692 enforcement school safety officers.

693           (a) Sworn law enforcement school safety officers shall  
694 undergo criminal background checks, drug testing, and a  
695 psychological evaluation and be law enforcement officers, as  
696 defined in s. 943.10(1), certified under ~~the provisions of~~  
697 chapter 943 and employed by either a law enforcement agency or  
698 by the district school board. If the officer is employed by the  
699 district school board, the district school board is the  
700 employing agency for purposes of chapter 943, and must comply  
701 with ~~the provisions of~~ that chapter.

702           (b) A sworn law enforcement school safety officer has and  
703 shall exercise the power to make arrests for violations of law  
704 on district school board property or on property owned or leased  
705 by a charter school under the charter contract, as applicable,  
706 and to arrest persons, whether on or off such property, who



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707 violate any law on such property under the same conditions that  
708 deputy sheriffs are authorized to make arrests. A sworn law  
709 enforcement school safety officer has the authority to carry  
710 weapons when performing his or her official duties.

711 (c) A district school board may enter into mutual aid  
712 agreements with one or more law enforcement agencies as provided  
713 in chapter 23. A sworn law enforcement school safety officer's  
714 salary may be paid jointly by the district school board and the  
715 law enforcement agency, as mutually agreed to.

716 (d) Sworn law enforcement school safety officers shall  
717 complete mental health crisis intervention training using a  
718 curriculum developed by a national organization with expertise  
719 in mental health crisis intervention. The training must improve  
720 officers' knowledge and skills as first responders to incidents  
721 involving students with emotional disturbance or mental illness,  
722 including de-escalation skills to ensure student and officer  
723 safety.

724 (3) FEIS GUARDIAN PROGRAM CERTIFIED SCHOOL GUARDIAN.—At the  
725 school district's or the charter school governing board's  
726 discretion, as applicable, pursuant to s. 30.15, a school  
727 district or charter school governing board may participate in  
728 the Coach Aaron Feis Guardian Program to meet the requirement of  
729 establishing a safe-school officer. The following individuals  
730 may serve as a Feis guardian program certified school guardian,  
731 in support of school-sanctioned activities for purposes of s.  
732 790.115, upon satisfactory completion of the requirements under  
733 s. 30.15(1)(k) and certification by a sheriff:

734 (a) A school district employee or personnel, as defined  
735 under s. 1012.01, or a charter school employee, as provided



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736 under s. 1002.33(12) (a), who volunteers to serve as a Feis  
737 guardian program certified school guardian in addition to his or  
738 her official job duties; or

739 (b) An employee of a school district or a charter school  
740 who is hired for the specific purpose of serving as a Feis  
741 guardian program certified school guardian.

742 (4) FEIS GUARDIAN PROGRAM CERTIFIED SCHOOL SECURITY GUARD.—  
743 A school district or charter school governing board may contract  
744 with a security agency as defined in s. 493.6101(18) to employ  
745 as a Feis guardian program certified school security guard an  
746 individual who holds a Class "D" and Class "G" license pursuant  
747 to chapter 493, provided the following training and contractual  
748 conditions are met:

749 (a) An individual who serves as a Feis guardian program  
750 certified school security guard, for purposes of satisfying the  
751 requirements of this section, must:

752 1. Demonstrate satisfactory completion of all training  
753 program requirements of the Coach Aaron Feis Guardian Program,  
754 as provided and certified by a county sheriff, ~~144 hours of~~  
755 ~~required training~~ pursuant to s. 30.15(1) (k)2.

756 2. Submit to and pass a psychological evaluation  
757 administered by a licensed professional ~~psychologist~~ licensed  
758 under chapter 490 and designated by the Department of Law  
759 Enforcement and submit the results of the evaluation to the  
760 sheriff's office, school district, or charter school governing  
761 board, as applicable. The sheriff's office must review and  
762 approve the results of each applicant's psychological evaluation  
763 before accepting the applicant into the Feis guardian program.

764 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



794 abatement of active assailant incidents on school premises.

795 (d) A Feis guardian program certified school security guard  
796 servicing in the capacity of a safe-school officer pursuant to  
797 this subsection is considered to be a "noninstructional  
798 contractor" subject to the background screening requirements of  
799 s. 1012.465, as they apply to each applicable school district or  
800 charter school, and these requirements must be satisfied before  
801 the Feis guardian program certified school security guard is  
802 given access to school grounds.

803 (5) NOTIFICATION.—The school district superintendent or  
804 charter school administrator shall notify the county sheriff and  
805 the Office of Safe Schools immediately after, but no later than  
806 72 hours after:

807 (a) A safe-school officer is dismissed for misconduct or is  
808 otherwise disciplined.

809 (b) A safe-school officer discharges his or her firearm in  
810 the exercise of the safe-school officer's duties, other than for  
811 training purposes.

812 (6) EXEMPTION.—Any information that would identify whether  
813 a particular individual has been appointed as a safe-school  
814 officer pursuant to this section held by a law enforcement  
815 agency, school district, or charter school is exempt from s.  
816 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
817 subsection is subject to the Open Government Sunset Review Act  
818 in accordance with s. 119.15 and shall stand repealed on October  
819 2, 2023, unless reviewed and saved from repeal through  
820 reenactment by the Legislature.

821  
822 If a district school board, through its adopted policies,



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823 procedures, or actions, denies a charter school access to any  
824 safe-school officer options pursuant to this section, the school  
825 district must assign a sworn law enforcement school resource  
826 officer or sworn law enforcement school safety officer to the  
827 charter school. Under such circumstances, the charter school's  
828 share of the costs of the sworn law enforcement school resource  
829 officer or sworn law enforcement school safety officer may not  
830 exceed the safe school allocation funds provided to the charter  
831 school pursuant to s. 1011.62(15) and shall be retained by the  
832 school district.

833 Section 14. Paragraph (a) of subsection (2) of section  
834 1006.1493, Florida Statutes, is amended to read:

835 1006.1493 Florida Safe Schools Assessment Tool.—

836 (2) The FSSAT must help school officials identify threats,  
837 vulnerabilities, and appropriate safety controls for the schools  
838 that they supervise, pursuant to the security risk assessment  
839 requirements of s. 1006.07(6).

840 (a) At a minimum, the FSSAT must address all of the  
841 following components:

- 842 1. School emergency and crisis preparedness planning;
- 843 2. Security, crime, and violence prevention policies and  
844 procedures;
- 845 3. Physical security measures;
- 846 4. Professional development training needs;
- 847 5. An examination of support service roles in school  
848 safety, security, and emergency planning;
- 849 6. School security and school police staffing, operational  
850 practices, and related services;
- 851 7. School and community collaboration on school safety; ~~and~~



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852           8. A return on investment analysis of the recommended  
853 physical security controls and;

854           9. Policies and procedures to prepare for and respond to  
855 natural or manmade disasters or emergencies, including plans to  
856 reunite students and employees with families after a school is  
857 closed or unexpectedly evacuated due to such disasters or  
858 emergencies.

859           Section 15. Subsection (16) of section 1011.62, Florida  
860 Statutes, is amended to read:

861           1011.62 Funds for operation of schools.—If the annual  
862 allocation from the Florida Education Finance Program to each  
863 district for operation of schools is not determined in the  
864 annual appropriations act or the substantive bill implementing  
865 the annual appropriations act, it shall be determined as  
866 follows:

867           (16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health  
868 assistance allocation is created to provide funding to assist  
869 school districts in establishing or expanding school-based  
870 mental health care; train educators and other school staff in  
871 detecting and responding to mental health issues; and connect  
872 children, youth, and families who may experience behavioral  
873 health issues with appropriate services. These funds shall be  
874 allocated annually in the General Appropriations Act or other  
875 law to each eligible school district. Each school district shall  
876 receive a minimum of \$100,000, with the remaining balance  
877 allocated based on each school district's proportionate share of  
878 the state's total unweighted full-time equivalent student  
879 enrollment. Charter schools that submit a plan separate from the  
880 school district are entitled to a proportionate share of





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881 district funding. The allocated funds may not supplant funds  
882 that are provided for this purpose from other operating funds  
883 and may not be used to increase salaries or provide bonuses.  
884 School districts are encouraged to maximize third-party health  
885 insurance benefits and Medicaid claiming for services, where  
886 appropriate.

887 (a) Before the distribution of the allocation:

888 1. The school district shall ~~must~~ develop and submit a  
889 detailed plan outlining the local program and planned  
890 expenditures to the district school board for approval. The This  
891 plan, which must include input from school and community  
892 stakeholders, applies to all district schools, including charter  
893 schools, unless a charter school elects to submit a plan  
894 independently from the school district pursuant to subparagraph  
895 2.

896 2. A charter school may develop and submit a detailed plan  
897 outlining the local program and planned expenditures to its  
898 governing body for approval. After the plan is approved by the  
899 governing body, it must be provided to the charter school's  
900 sponsor.

901 (b) The plans required under paragraph (a) must be focused  
902 on a multitiered system of supports to deliver evidence-based  
903 mental health care assessment, diagnosis, intervention,  
904 treatment, and recovery services to students with one or more  
905 mental health or co-occurring substance abuse diagnoses and to  
906 students at high risk of such diagnoses. The provision of these  
907 services must be coordinated with a student's primary mental  
908 health care provider and with other mental health providers  
909 involved in the student's care. At a minimum, the plans must



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910 include the following elements:

911 1. Direct employment of school-based mental health services  
912 providers to expand and enhance school-based student services  
913 and to reduce the ratio of students to staff in order to better  
914 align with nationally recommended ratio models. These providers  
915 include, but are not limited to, certified school counselors,  
916 school psychologists, school social workers, and other licensed  
917 mental health professionals. The plan also must establish  
918 ~~identify~~ strategies to increase the amount of time that school-  
919 based student services personnel spend providing direct services  
920 to students, which may include the review and revision of  
921 district staffing resource allocations based on school or  
922 student mental health assistance needs.

923 2. Contracts or interagency agreements with one or more  
924 local community behavioral health providers or providers of  
925 Community Action Team services to provide a behavioral health  
926 staff presence and services at district schools. Services may  
927 include, but are not limited to, mental health screenings and  
928 assessments, individual counseling, family counseling, group  
929 counseling, psychiatric or psychological services, trauma-  
930 informed care, mobile crisis services, and behavior  
931 modification. These behavioral health services may be provided  
932 on or off the school campus and may be supplemented by  
933 telehealth.

934 3. Policies and procedures, including contracts with  
935 service providers, which will ensure that students who are  
936 referred to a school-based or community-based mental health  
937 service provider for mental health screening for the  
938 identification of mental health concerns and ensure that the



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939 assessment of students at risk for mental health disorders  
940 occurs within 15 days of referral. School-based mental health  
941 services must be initiated within 15 days after identification  
942 and assessment, and support by community-based mental health  
943 service providers for students who are referred for community-  
944 based mental health services must be initiated within 30 days  
945 after the school or district makes a referral.

946 4. Mental health policies and procedures that implement and  
947 support all of the following elements:

948 a. Universal supports to promote psychological well-being  
949 and safe and supportive environments.

950 b. Evidence-based strategies or programs to reduce the  
951 likelihood of at-risk students developing social, emotional, or  
952 behavioral health problems, depression, anxiety disorders,  
953 suicidal tendencies, or substance use disorders.

954 ~~c.5.~~ Strategies to improve the early identification of  
955 social, emotional, or behavioral problems or substance use  
956 disorders; ~~provide, to improve the provision of~~ early  
957 intervention services; ~~7~~ and ~~to~~ assist students in dealing with  
958 trauma and violence.

959 d. Methods for responding to a student with suicidal  
960 ideation, including training in suicide risk assessment and the  
961 use of suicide awareness, prevention, and screening instruments  
962 developed under s. 1012.583; adoption of guidelines for  
963 informing parents of suicide risk; and implementation of board  
964 policies for initiating involuntary examination of students at  
965 risk of suicide.

966 e. A school crisis response plan that includes strategies  
967 for the prevention of, preparation for, response to, and



968 recovery from a range of school crises. The plan must establish  
969 or coordinate the implementation of district-level and school-  
970 level crisis response teams whose membership includes, but is  
971 not limited to, representatives of school administration and  
972 school-based mental health service providers.

973 (c) School districts shall submit approved plans, including  
974 approved plans of each charter school in the district, to the  
975 commissioner by August 1 of each fiscal year.

976 (d) By September 30 of each year ~~Beginning September 30,~~  
977 ~~2019, and annually by September 30 thereafter,~~ each school  
978 district shall submit its district report to the department. By  
979 November 1 of each year, the department shall submit a state  
980 summary report to the Governor, the President of the Senate, and  
981 the Speaker of the House of Representatives on ~~Department of~~  
982 ~~Education a report on its~~ program outcomes and expenditures for  
983 the previous fiscal year. The school district report must  
984 include program outcomes and expenditures for all public schools  
985 in the district, including charter schools that submitted a  
986 separate plan. At a minimum, the district and state reports also  
987 must that, at a minimum, must include school district-level and  
988 school-level, including charter schools, information, including  
989 multiple-year trend data, when available, for each of the number  
990 ~~of each of~~ the following indicators:

991 1. The number of students who receive screenings or  
992 assessments.

993 2. The number of students who are referred to either  
994 school-based or community-based providers for services or  
995 assistance.

996 3. The number of students who receive either school-based



390288

997 or community-based interventions, services, or assistance.

998 4. The number of school-based and community-based mental  
999 health providers, including licensure type, paid for from funds  
1000 provided through the allocation.

1001 5. The number and ratio to students of school social  
1002 workers, school psychologists, and certified school counselors  
1003 employed by the district or charter school and the total number  
1004 of licensed mental health professionals directly employed by the  
1005 district or charter school.

1006 6. Contract-based collaborative efforts or partnerships  
1007 with community mental health programs, agencies, or providers.

1008 Section 16. Except as otherwise expressly provided in this  
1009 act and except for this section, which shall take effect upon  
1010 becoming a law, this act shall take effect July 1, 2020.

1011  
1012 ===== T I T L E A M E N D M E N T =====

1013 And the title is amended as follows:

1014 Delete everything before the enacting clause  
1015 and insert:

1016 A bill to be entitled  
1017 An act relating to implementation of the  
1018 recommendations of the Marjory Stoneman Douglas High  
1019 School Public Safety Commission; amending s. 30.15,  
1020 F.S.; authorizing a sheriff to contract for services  
1021 to provide training under the Coach Aaron Feis  
1022 Guardian Program; revising training and evaluation  
1023 requirements for school guardians; expanding the  
1024 program to include the training and certification of  
1025 school security guards; requiring the review and



1026 approval of evaluations and results; amending s.  
1027 943.082, F.S.; adding penalties for persons who  
1028 knowingly submit false information to a law  
1029 enforcement agency; amending s. 943.687, F.S.;  
1030 requiring the addition of three members to the Marjory  
1031 Stoneman Douglas High School Public Safety Commission  
1032 as of a certain date; requiring consideration of  
1033 balanced representation; amending s. 985.12, F.S.;  
1034 requiring certain state agencies and state attorneys  
1035 to cooperate in the oversight and enforcement of  
1036 school-based diversion programs; requiring that law  
1037 enforcement officers have access to certain  
1038 information; amending s. 1001.11, F.S.; specifying  
1039 legislative intent; assigning the Commissioner of  
1040 Education specified duties regarding education-related  
1041 school safety requirements; amending s. 1001.212,  
1042 F.S.; revising the training, consultation, and  
1043 coordination responsibilities of the Office of Safe  
1044 Schools; conforming and requiring evaluation and  
1045 coordination of incident reporting requirements;  
1046 requiring the office to maintain a directory of  
1047 programs; requiring the office to develop a model  
1048 plan; amending s. 1002.33, F.S.; conforming safety  
1049 requirements to changes made by the act; amending s.  
1050 1002.421, F.S.; requiring private schools comply with  
1051 certain statutory provision related to criteria for  
1052 assigning a student to a civil citation or similar  
1053 prearrest diversion program; amending s. 1003.5716,  
1054 F.S.; revising individual education plan requirements



1055 for certain students to include a statement of  
1056 expectations for the transition of behavioral health  
1057 services needed after high school graduation;  
1058 requiring parent, student, and agency roles and  
1059 responsibilities to be specified in a course of action  
1060 transition plan, as applicable; amending s. 1004.44,  
1061 F.S.; requiring the Louis de la Parte Florida Mental  
1062 Health Institute to consult with specified state  
1063 agencies and convene a workgroup to advise those  
1064 agencies on the implementation of specified mental  
1065 health recommendations; requiring the institute to  
1066 submit a report with administrative and legislative  
1067 policy recommendations to the Governor and the  
1068 Legislature by a specified date; authorizing the  
1069 institute to submit additional reports and  
1070 recommendations as needed and requested; amending s.  
1071 1006.07, F.S.; requiring code of student conduct  
1072 policies to contain prearrest diversion program  
1073 criteria; specifying requirements applicable to  
1074 emergency drill policies and procedures; adding threat  
1075 assessment team membership, training, and procedural  
1076 requirements; incorporating additional discipline and  
1077 behavioral incident reports within school safety  
1078 incident reporting requirements; requiring district  
1079 school boards to adopt school district emergency event  
1080 family reunification policies and plans; requiring  
1081 school-based emergency event family reunification  
1082 plans to be consistent with school board policy and  
1083 the school district plan; requiring plans to address



390288

1084 specified requirements within the framework of model  
1085 policies and plans identified by the office; amending  
1086 s. 1006.09, F.S.; requiring school principals to use a  
1087 specified system to report school safety incidents;  
1088 amending s. 1006.12, F.S.; requiring school safety  
1089 officers to complete specified training to improve  
1090 knowledge and skills as first responders to certain  
1091 incidents; specifying county sheriffs' responsibility  
1092 for specified training required for school security  
1093 guards; requiring certain school security guards to  
1094 meet district background screening requirements and  
1095 qualification requirements; conforming notification  
1096 requirements to changes made by the act; amending s.  
1097 1006.1493, F.S.; revising components that must be  
1098 assessed by the Florida Safe Schools Assessment Tool  
1099 to include policies and procedures to prepare for and  
1100 respond to natural or manmade disasters or  
1101 emergencies; amending s. 1011.62, F.S.; revising  
1102 requirements that must be met before the distribution  
1103 of the mental health assistance allocation; providing  
1104 effective dates.





701724

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2020	.	
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The Committee on Appropriations (Thurston) recommended the following:

1           **Senate Amendment to Amendment (390288) (with title**  
2 **amendment)**

3  
4           Delete lines 165 - 177  
5 and insert:

6           2. In addition to the membership requirements of  
7 subparagraph 1., effective June 1, 2020, the commission  
8 membership is expanded to include five additional members. By  
9 May 31, 2020, the Governor, the President of the Senate, and the  
10 Speaker of the House of Representatives shall each appoint one



701724

11 additional member selected from among the state's actively  
12 serving district school superintendents, school principals, and  
13 classroom teachers, one of which shall be of Hispanic or Latino  
14 descent or heritage. The additional members also must include  
15 the president of the NAACP Florida State Conference or his or  
16 her designee and a representative of the Florida Consortium of  
17 Urban League Affiliates, designated by the consortium.  
18 Thereafter, to the extent possible, future appointments to fill  
19 vacancies or replace members of the commission must give  
20 consideration to achieving an equal balance of school district,  
21 law enforcement, and health care professional representation and  
22 to reflecting the cultural diversity of this state.

23  
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete lines 1030 - 1032

27 and insert:

28 requiring that the membership of the Marjory Stoneman  
29 Douglas High School Public Safety Commission be  
30 expanded as of a specified date; requiring the  
31 Governor, the President of the Senate, and the Speaker  
32 of the House of Representatives to appoint specified  
33 additional members; providing for the inclusion of  
34 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:

1           **Senate Amendment to Amendment (390288) (with directory and**  
2 **title amendments)**

3  
4           Between lines 481 and 482  
5 insert:

6           (o) Criteria for assigning a student to a school-based  
7 intervention program. A student's participation in a school-  
8 based intervention program shall not be entered into the  
9 Juvenile Justice Information System Prevention Web.

10



105554

11 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====  
12 And the directory clause is amended as follows:  
13 Delete line 455  
14 and insert:  
15 amended, and paragraphs (n) and (o) of subsection (2), paragraph  
16 (d) of  
17  
18 ===== T I T L E A M E N D M E N T =====  
19 And the title is amended as follows:  
20 Delete line 1073  
21 and insert:  
22 criteria; requiring such policies to contain certain  
23 school-based intervention program criteria;  
24 prohibiting the entry of a student's participation in  
25 a school-based intervention program into the Juvenile  
26 Justice Information System Prevention Web; specifying  
27 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:

1           **Senate Amendment to Amendment (390288) (with title**  
2 **amendment)**

3  
4           Delete line 832  
5 and insert:

6           school district. Nothing in this provision shall operate to  
7 require a charter school to contract with the school district  
8 for the provision of a sworn law enforcement school resource  
9 officer or a sworn law enforcement school safety officer. At the  
10 election of the charter school, the charter school may waive the



502976

11 school district's obligation to assign a sworn law enforcement  
12 school resource officer or sworn law enforcement school safety  
13 officer, and the charter school may retain its safe school  
14 allocation funds.

15

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

17 And the title is amended as follows:

18       Delete line 1096

19 and insert:

20       requirements to changes made by the act; clarifying  
21       requirements for the assignment of safe school  
22       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

11 serving district school superintendents, school principals, and  
12 classroom teachers. The additional members must also include the  
13 president of the Fort Lauderdale/Broward NAACP or his or her  
14 designee and the president of the Urban League of Broward County  
15 or his or her designee. Thereafter, to the extent possible,  
16 future appointments to fill vacancies or replace members of the  
17 commission must give consideration to achieving an equal balance  
18 of school district, law enforcement, and health care  
19 professional representation and to reflecting the cultural  
20 diversity of this state.

21  
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete line 17

25 and insert:

26 as of a certain date; requiring that the membership of  
27 the Marjory Stoneman Douglas High School Public Safety  
28 Commission be expanded by a specified date; requiring  
29 the Governor, the President of the Senate, and the  
30 Speaker of the House of Representatives to appoint  
31 specified additional members; requiring that the  
32 additional members include the executives of certain  
33 organizations or their designees; requiring  
34 consideration of





730920

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2020	.	
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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

11 And the directory clause is amended as follows:

12 Delete line 547

13 and insert:

14 amended, and paragraphs (n) and (o) of subsection (2), paragraph  
15 (d) of

16

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

18 And the title is amended as follows:

19 Delete line 58

20 and insert:

21 criteria; requiring code of student conduct policies  
22 to contain school-based intervention program criteria;  
23 prohibiting the entry of a student's participation in  
24 a school-based intervention program into the Juvenile  
25 Justice Information System Prevention Web; specifying  
26 requirements applicable to



593112

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2020	.	
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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

11 And the directory clause is amended as follows:

12 Delete line 547

13 and insert:

14 amended, and paragraphs (n) and (o) of subsection (2), paragraph  
15 (d) of

16

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

18 And the title is amended as follows:

19 Delete line 58

20 and insert:

21 criteria; requiring such policies to contain certain  
22 school-based intervention program criteria;  
23 prohibiting the entry of a student's participation in  
24 a school-based intervention program into the Juvenile  
25 Justice Information System Prevention Web; specifying  
26 requirements applicable to

By the Committees on Infrastructure and Security; and Education

596-03025A-20

20207040c1

1 A bill to be entitled  
 2 An act relating to implementation of the  
 3 recommendations of the Marjory Stoneman Douglas High  
 4 School Public Safety Commission; amending s. 30.15,  
 5 F.S.; authorizing a sheriff to contract for services  
 6 to provide training under the Coach Aaron Feis  
 7 Guardian Program; revising training and evaluation  
 8 requirements for school guardians; expanding the  
 9 program to include the training and certification of  
 10 school security guards; requiring the review and  
 11 approval of evaluations and results; amending s.  
 12 943.082, F.S.; adding penalties for persons who  
 13 knowingly submit false information to a law  
 14 enforcement agency; amending s. 943.687, F.S.;  
 15 requiring the addition of three members to the Marjory  
 16 Stoneman Douglas High School Public Safety Commission  
 17 as of a certain date; requiring consideration of  
 18 balanced representation; amending s. 985.12, F.S.;  
 19 requiring certain state agencies and state attorneys  
 20 to cooperate in the oversight and enforcement of  
 21 school-based diversion programs; requiring that law  
 22 enforcement officers have access to a certain  
 23 database; amending s. 1001.11, F.S.; specifying  
 24 legislative intent; assigning the Commissioner of  
 25 Education specified duties regarding education-related  
 26 school safety requirements; amending s. 1001.212,  
 27 F.S.; revising the training, consultation, and  
 28 coordination responsibilities of the Office of Safe  
 29 Schools; conforming and requiring evaluation and

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

596-03025A-20

20207040c1

30 coordination of incident reporting requirements;  
 31 requiring the office to maintain a directory of  
 32 programs; requiring the office to develop a model  
 33 plan; amending s. 1002.33, F.S.; conforming safety  
 34 requirements to changes made by the act; amending s.  
 35 1002.421, F.S.; requiring private schools comply with  
 36 certain statutory provision related to criteria for  
 37 assigning a student to a civil citation or similar  
 38 prearrest diversion program; amending s. 1003.5716,  
 39 F.S.; revising individual education plan requirements  
 40 for certain students to include a statement of  
 41 expectations for the transition of behavioral health  
 42 services needed after high school graduation;  
 43 requiring parent, student, and agency roles and  
 44 responsibilities to be specified in a course of action  
 45 transition plan, as applicable; amending s. 1004.44,  
 46 F.S.; requiring the Louis de la Parte Florida Mental  
 47 Health Institute to consult with specified state  
 48 agencies and convene a workgroup to advise those  
 49 agencies on the implementation of specified mental  
 50 health recommendations; requiring the institute to  
 51 submit a report with administrative and legislative  
 52 policy recommendations to the Governor and the  
 53 Legislature by a specified date; authorizing the  
 54 institute to submit additional reports and  
 55 recommendations as needed and requested; amending s.  
 56 1006.07, F.S.; requiring code of student conduct  
 57 policies to contain prearrest diversion program  
 58 criteria; specifying requirements applicable to

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

596-03025A-20

20207040c1

59 emergency drill policies and procedures, in accordance  
 60 with State Board of Education rules; requiring the  
 61 state board to adopt rules in consultation with state  
 62 and local entities; adding threat assessment team  
 63 membership, training, and procedural requirements;  
 64 incorporating additional discipline and behavioral  
 65 incident reports within school safety incident  
 66 reporting requirements; requiring district school  
 67 boards to adopt school district emergency event family  
 68 reunification policies and plans; requiring school-  
 69 based emergency event family reunification plans to be  
 70 consistent with school board policy and the school  
 71 district plan; requiring plans to address specified  
 72 requirements within the framework of model policies  
 73 and plans identified by the office; amending s.  
 74 1006.09, F.S.; requiring school principals to use a  
 75 specified system to report school safety incidents;  
 76 amending s. 1006.12, F.S.; requiring school safety  
 77 officers to complete specified training to improve  
 78 knowledge and skills as first responders to certain  
 79 incidents; specifying county sheriffs' responsibility  
 80 for specified training required for school security  
 81 guards; requiring certain school security guards to  
 82 meet district background screening requirements and  
 83 qualification requirements; conforming notification  
 84 requirements to changes made by the act; amending s.  
 85 1006.13, F.S.; authorizing district school boards to  
 86 assign students to certain diversion programs as  
 87 options within zero-tolerance policies; amending s.

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

596-03025A-20

20207040c1

88 1006.1493, F.S.; revising components that must be  
 89 assessed by the Florida Safe Schools Assessment Tool  
 90 to include policies and procedures to prepare for and  
 91 respond to natural or manmade disasters or  
 92 emergencies; amending s. 1011.62, F.S.; revising  
 93 requirements that must be met before the distribution  
 94 of the mental health assistance allocation; providing  
 95 effective dates.  
 96  
 97 Be It Enacted by the Legislature of the State of Florida:  
 98  
 99 Section 1. Paragraph (k) of subsection (1) of section  
 100 30.15, Florida Statutes, is amended to read:  
 101 30.15 Powers, duties, and obligations.—  
 102 (1) Sheriffs, in their respective counties, in person or by  
 103 deputy, shall:  
 104 (k) Assist district school boards and charter school  
 105 governing boards in complying with s. 1006.12. A sheriff must,  
 106 at a minimum, provide access to a Coach Aaron Feis Guardian  
 107 Program training to aid in the prevention or abatement of active  
 108 assailant incidents on school premises, as required under this  
 109 paragraph. Persons certified as Feis guardian program certified  
 110 school guardians or Feis guardian program certified school  
 111 security guards pursuant to this paragraph do not have ~~ne~~  
 112 authority to act in any law enforcement capacity except to the  
 113 extent necessary to prevent or abate an active assailant  
 114 incident.  
 115 1.a. If a local school board has voted by a majority to  
 116 implement a Feis guardian program, the sheriff in that county

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

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20207040c1

117 shall establish a Feis guardian program to provide training,  
 118 pursuant to subparagraph 2., to school district or charter  
 119 school employees directly; through a contract with an entity  
 120 selected by the local sheriff, provided that the local sheriff  
 121 oversees, supervises, and certifies all aspects of the contract  
 122 governing the Feis guardian program for the local jurisdiction;  
 123 ~~either directly or~~ through a contract with another sheriff's  
 124 office that has established a Feis guardian program; or through  
 125 any combination thereof. To facilitate effective training and  
 126 emergency response in the event of an active assailant  
 127 situation, a sheriff who contracts with one or more county  
 128 sheriffs to provide Feis guardian program training and  
 129 certification for the local school district and charter schools  
 130 within its county jurisdiction shall notify, in writing, the  
 131 local district school superintendent and charter school  
 132 administrators of all county-specific protocols incorporated  
 133 into the contracted Feis guardian program training and  
 134 certification requirements.

135 b. A charter school governing board in a school district  
 136 that has not voted, or has declined, to implement a Feis  
 137 guardian program may request the sheriff in the county to  
 138 establish a Feis guardian program for the purpose of training  
 139 the charter school employees. If the county sheriff denies the  
 140 request, the charter school governing board may contract with a  
 141 sheriff that has established a Feis guardian program to provide  
 142 such training. The charter school governing board must notify,  
 143 in writing, the superintendent and the sheriff in the charter  
 144 school's county of the contract prior to its execution.

145 c. The sheriff conducting the Feis guardian program

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

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20207040c1

146 training pursuant to subparagraph 2. ~~shall will~~ be reimbursed by  
 147 the Department of Education for screening-related and training-  
 148 related costs for Feis guardian program certified school  
 149 guardians and Feis guardian program certified school security  
 150 guards as provided in s. 1006.12(3) and (4), respectively, and  
 151 for providing a one-time stipend of \$500 to each Feis guardian  
 152 program certified school guardian who participates in the Feis  
 153 ~~school~~ guardian program as an employee of a school district or  
 154 charter school.

155 2. A sheriff who establishes a Feis guardian training  
 156 program shall consult with the Department of Law Enforcement on  
 157 programmatic guiding principles, practices, and resources, and  
 158 shall certify, without the power of arrest, Feis guardian  
 159 program certified as school guardians, without the power of  
 160 arrest, school employees, as specified in s. 1006.12(3) and Feis  
 161 guardian program school security guards as specified in s.  
 162 1006.12(4), who:

163 a. Hold a valid license issued under s. 790.06, applicable  
 164 to district or school employees serving as Feis guardian program  
 165 certified school guardians pursuant to s. 1006.12(3); or hold a  
 166 valid Class "D" and Class "G" license issued under chapter 493,  
 167 applicable to individuals contracted to serve as Feis guardian  
 168 program certified school security guards under s. 1006.12(4).

169 b. Complete a 144-hour training program, consisting of 12  
 170 hours of certified nationally recognized diversity training and  
 171 132 total hours of comprehensive firearm safety and proficiency  
 172 training, conducted by Criminal Justice Standards and Training  
 173 Commission-certified instructors who hold active instructional  
 174 certifications, which must include:

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

596-03025A-20

20207040c1

175 (I) Eighty hours of firearms instruction based on the  
 176 Criminal Justice Standards and Training Commission's Law  
 177 Enforcement Academy training model, which must include at least  
 178 10 percent but no more than 20 percent more rounds fired than  
 179 associated with academy training. Program participants must  
 180 achieve an 85 percent pass rate on the firearms training.

181 (II) Sixteen hours of instruction in precision pistol.  
 182 Training must include night and low-light shooting conditions.

183 (III) Eight hours of discretionary shooting instruction  
 184 using state-of-the-art simulator exercises.

185 (IV) Eight hours of instruction in active shooter or  
 186 assailant scenarios.

187 (V) Eight hours of instruction in defensive tactics.

188 (VI) Twelve hours of instruction in legal issues.

189 c. Submit to and pass a psychological evaluation  
 190 administered by a licensed professional psychologist licensed  
 191 under chapter 490 and designated by the Department of Law  
 192 Enforcement and submit the results of the evaluation to the  
 193 sheriff's office. The sheriff's office must review and approve  
 194 the results of each applicant's psychological evaluation before  
 195 accepting the applicant into the Feis guardian program. The  
 196 Department of Law Enforcement is authorized to provide the  
 197 sheriff's office with mental health and substance abuse data for  
 198 compliance with this paragraph.

199 d. Submit to and pass an initial drug test and subsequent  
 200 random drug tests in accordance with the requirements of s.  
 201 112.0455 and the sheriff's office. The sheriff's office must  
 202 review and approve the results of each applicant's drug tests  
 203 before accepting the applicant into the Feis guardian program.

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

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20207040c1

204 e. Successfully complete ongoing training conducted by a  
 205 Criminal Justice Standards and Training Commission-certified  
 206 instructor who holds an active instructional certification,  
 207 weapon inspection, and firearm qualification on at least an  
 208 annual basis, as required by the sheriff's office.

209

210 The sheriff who conducts the Feis guardian program training  
 211 pursuant to this paragraph shall issue a Feis ~~school~~ guardian  
 212 program certificate to individuals who meet the requirements of  
 213 this section to the satisfaction of the sheriff, and shall  
 214 maintain documentation of weapon and equipment inspections, as  
 215 well as the training, certification, inspection, and  
 216 qualification records of each Feis guardian program certified  
 217 school guardian and Feis guardian program certified school  
 218 security guard certified by the sheriff. An individual who is  
 219 certified under this paragraph may serve as a Feis guardian  
 220 program certified school guardian under s. 1006.12(3) or a Feis  
 221 guardian program certified school security guard under s.  
 222 1006.12(4) only if he or she is appointed by the applicable  
 223 district school superintendent ~~school district superintendent~~ or  
 224 charter school administrator ~~principal~~.

225 Section 2. Effective October 1, 2020, paragraph (c) is  
 226 added to subsection (2) of section 943.082, Florida Statutes, to  
 227 read:

228 943.082 School Safety Awareness Program.—

229 (2) The reporting tool must notify the reporting party of  
 230 the following information:

231 (c) That, if following investigation, it is determined that  
 232 a person knowingly submitted a false tip through FortifyFL, the

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



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233 IP address of the device on which the tip was submitted will be  
 234 provided to law enforcement agencies for further investigation  
 235 and the reporting party may be subject to criminal penalties  
 236 under s. 837.05. In all other circumstances, unless the  
 237 reporting party has chosen to disclose his or her identity, the  
 238 report must remain anonymous.

239 Section 3. Paragraph (a) of subsection (2) of section  
 240 943.687, Florida Statutes, is amended to read:  
 241 943.687 Marjory Stoneman Douglas High School Public Safety  
 242 Commission.—

243 (2) (a) 1. The commission shall convene no later than June 1,  
 244 2018, and shall be composed of 16 members. Five members shall be  
 245 appointed by the President of the Senate, five members shall be  
 246 appointed by the Speaker of the House of Representatives, and  
 247 five members shall be appointed by the Governor. From the  
 248 members of the commission, the Governor shall appoint the chair.  
 249 Appointments must be made by April 30, 2018. The Commissioner of  
 250 the Department of Law Enforcement shall serve as a member of the  
 251 commission. The Secretary of Children and Families, the  
 252 Secretary of Juvenile Justice, the Secretary of Health Care  
 253 Administration, and the Commissioner of Education shall serve as  
 254 ex officio, nonvoting members of the commission. Members shall  
 255 serve at the pleasure of the officer who appointed the member. A  
 256 vacancy on the commission shall be filled in the same manner as  
 257 the original appointment.

258 2. In addition to the membership requirements of  
 259 subparagraph 1., beginning June 1, 2020, the commission shall  
 260 include three additional members selected from among the state's  
 261 actively serving district school superintendents, school

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262 principals, and classroom teachers. The additional members must  
 263 be appointed by May 30, 2020, one each by the Governor, the  
 264 President of the Senate, and the Speaker of the House of  
 265 Representatives. Thereafter, to the extent possible, future  
 266 appointments to fill vacancies or replace members of the  
 267 commission must give consideration to achieving an equal balance  
 268 of school district, law enforcement, and health care  
 269 professional representation which reflects the cultural  
 270 diversity of the state.

271 Section 4. Paragraphs (c) and (f) of subsection (2) of  
 272 section 985.12, Florida Statutes, are amended to read:

273 985.12 Civil citation or similar prearrest diversion  
 274 programs.—

275 (2) JUDICIAL CIRCUIT CIVIL CITATION OR SIMILAR PREARREST  
 276 DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

277 (c) The state attorney of each circuit shall operate a  
 278 civil citation or similar prearrest diversion program in each  
 279 circuit. A sheriff, police department, county, municipality,  
 280 locally authorized entity, or public or private educational  
 281 institution may continue to operate an independent civil  
 282 citation or similar prearrest diversion program that is in  
 283 operation as of October 1, 2018, if the independent program is  
 284 reviewed by the state attorney of the applicable circuit and he  
 285 or she determines that the independent program is substantially  
 286 similar to the civil citation or similar prearrest diversion  
 287 program developed by the circuit. If the state attorney  
 288 determines that the independent program is not substantially  
 289 similar to the civil citation or similar prearrest diversion  
 290 program developed by the circuit, the operator of the

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291 independent diversion program may revise the program and the  
 292 state attorney may conduct an additional review of the  
 293 independent program. In cooperation with the Department of  
 294 Education pursuant to s. 1001.212, the department and the state  
 295 attorney of each judicial circuit shall monitor and enforce  
 296 compliance with school-based diversion program requirements.

297 (f) Each civil citation or similar prearrest diversion  
 298 program shall enter the appropriate youth data into the Juvenile  
 299 Justice Information System Prevention Web within 7 days after  
 300 the admission of the youth into the program. Beginning in fiscal  
 301 year 2021-2022, law enforcement officers must have field access  
 302 to the Juvenile Justice Information System Prevention Web.

303 Section 5. Subsection (9) of section 1001.11, Florida  
 304 Statutes, is amended to read:

305 1001.11 Commissioner of Education; other duties.—

306 (9) With the intent of ensuring safe learning and teaching  
 307 environments, the commissioner shall oversee compliance with  
 308 education-related health, the safety, welfare, and security  
 309 requirements of law the Marjory Stoneman Douglas High School  
 310 Public Safety Act, chapter 2018-3, Laws of Florida, by school  
 311 districts; district school superintendents; and public schools,  
 312 including charter schools; and other entities or constituencies  
 313 as may be applicable. The commissioner shall ~~must~~ facilitate  
 314 public and nonpublic school compliance to the maximum extent  
 315 provided under law, identify incidents of material  
 316 noncompliance, and impose or recommend to the State Board of  
 317 Education, the Governor, or the Legislature enforcement and  
 318 sanctioning actions pursuant to s. 1001.42, s. 1001.51, chapter  
 319 1002, and s. 1008.32, and other authority granted under law. For

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320 purposes of this subsection, s. 1001.42(13)(b), and s.  
 321 1001.51(12)(b), the duties assigned to a district school  
 322 superintendent apply to charter school administrative personnel  
 323 as defined in s. 1012.01(3), and charter school governing boards  
 324 shall designate at least one administrator to be responsible for  
 325 such duties. The duties assigned to a district school board  
 326 apply to a charter school governing board.

327 Section 6. Present subsections (14) and (15) of section  
 328 1001.212, Florida Statutes, are redesignated as subsections (16)  
 329 and (17), respectively, new subsections (14) and (15) are added  
 330 to that section, and subsections (2), (4), (6), and (8) of that  
 331 section are amended, to read:

332 1001.212 Office of Safe Schools.—There is created in the  
 333 Department of Education the Office of Safe Schools. The office  
 334 is fully accountable to the Commissioner of Education. The  
 335 office shall serve as a central repository for best practices,  
 336 training standards, and compliance oversight in all matters  
 337 regarding school safety and security, including prevention  
 338 efforts, intervention efforts, and emergency preparedness  
 339 planning. The office shall:

340 (2) Provide ongoing professional development opportunities  
 341 to school district and charter school personnel.

342 (4) Develop and implement a School Safety Specialist  
 343 Training Program for school safety specialists appointed  
 344 pursuant to s. 1006.07(6). The office shall develop the training  
 345 program, which shall be based on national and state best  
 346 practices on school safety and security and must include active  
 347 shooter training. Training must also include information about  
 348 federal and state laws regarding education records, medical

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349 records, data privacy, and incident reporting requirements,  
 350 particularly with respect to behavioral threat assessment and  
 351 emergency planning and response procedures. The office shall  
 352 develop training modules in traditional or online formats. A  
 353 school safety specialist certificate of completion shall be  
 354 awarded to a school safety specialist who satisfactorily  
 355 completes the training required by rules of the office.

356 (6) Coordinate with the Department of Law Enforcement to  
 357 provide a centralized integrated data repository, known as the  
 358 Florida Schools Safety Portal, and data analytics resources to  
 359 improve access to timely, complete, and accurate information  
 360 integrating data from, at a minimum, but not limited to, the  
 361 following data sources ~~by August 1, 2019:~~

- 362 (a) Social media Internet posts;
- 363 (b) Department of Children and Families;
- 364 (c) Department of Law Enforcement;
- 365 (d) Department of Juvenile Justice;
- 366 (e) Mobile suspicious activity reporting tool known as  
 367 FortifyFL;
- 368 (f) Schools ~~environmental~~ safety incident reports collected  
 369 under subsection (8); and
- 370 (g) Local law enforcement.

371  
 372 Data that is exempt or confidential and exempt from public  
 373 records requirements retains its exempt or confidential and  
 374 exempt status when incorporated into the centralized integrated  
 375 data repository. To maintain the confidentiality requirements  
 376 attached to the information provided to the centralized  
 377 integrated data repository by the various state and local

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378 agencies, data governance and security shall ensure compliance  
 379 with all applicable state and federal data privacy requirements  
 380 through the use of user authorization and role-based security,  
 381 data anonymization and aggregation and auditing capabilities. To  
 382 maintain the confidentiality requirements attached to the  
 383 information provided to the centralized integrated data  
 384 repository by the various state and local agencies, each source  
 385 agency providing data to the repository shall be the sole  
 386 custodian of the data for the purpose of any request for  
 387 inspection or copies thereof under chapter 119. The department  
 388 shall only allow access to data from the source agencies in  
 389 accordance with rules adopted by the respective source agencies  
 390 and the requirements of the Federal Bureau of Investigation  
 391 Criminal Justice Information Services security policy, where  
 392 applicable.

393 (8) Oversee, facilitate, and coordinate district and school  
 394 compliance with school safety incident reporting requirements in  
 395 accordance with rules adopted by the state board enacting the  
 396 school safety incident reporting requirements of this  
 397 subsection, s. 1006.07(9), and other statutory safety incident  
 398 reporting requirements. The office shall:

- 399 (a) Provide technical assistance to school districts and  
 400 charter school governing boards and administrators for school  
 401 ~~environmental~~ safety incident reporting as required under s.  
 402 1006.07(9).
- 403 (b) ~~The office shall~~ Collect data through school  
 404 ~~environmental~~ safety incident reports on incidents involving any  
 405 person which occur on school premises, on school transportation,  
 406 and at off-campus, school-sponsored events.

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407 (c) Review and evaluate safety incident reports of each ~~The~~  
 408 ~~office shall review and evaluate~~ school district and charter  
 409 school and other entities, as may be required by law, ~~reports~~ to  
 410 ensure compliance with reporting requirements. The office shall  
 411 timely notify the commissioner of all incidents of material  
 412 noncompliance for purposes of invoking the commissioner's  
 413 responsibilities provided under s. 1001.11(9). Upon notification  
 414 by the ~~commissioner~~ ~~department~~ that a superintendent or charter  
 415 school administrator has, based on clear and convincing  
 416 evidence, failed to comply with the requirements of s.  
 417 1006.07(9), the district school board or charter school  
 418 governing board, as applicable, shall withhold further payment  
 419 of his or her salary as authorized under s. 1001.42(13)(b) and  
 420 impose other appropriate sanctions that the commissioner or  
 421 state board by law may impose, pending demonstration of full  
 422 compliance.

423 (14) Maintain a current directory of public and private  
 424 school-based diversion programs and cooperate with each judicial  
 425 circuit and the Department of Juvenile Justice to facilitate  
 426 their efforts to monitor and enforce each governing body's  
 427 compliance with s. 985.12.

428 (15) Develop, in coordination with the Division of  
 429 Emergency Management, other federal, state, and local law  
 430 enforcement agencies, fire and rescue agencies, and first  
 431 responder agencies, a model emergency event family reunification  
 432 plan for use by child care facilities, public K-12 schools, and  
 433 public postsecondary institutions that are closed or  
 434 unexpectedly evacuated due to natural or manmade disasters or  
 435 emergencies.

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436 Section 7. Paragraph (b) of subsection (16) of section  
 437 1002.33, Florida Statutes, is amended to read:

438 1002.33 Charter schools.—

439 (16) EXEMPTION FROM STATUTES.—

440 (b) Additionally, a charter school shall demonstrate and  
 441 certify in its contract, and if necessary through addendum to  
 442 its contract, the charter school's ~~be in~~ compliance with the  
 443 following statutes:

444 1. Section 286.011, relating to public meetings and  
 445 records, public inspection, and criminal and civil penalties.

446 2. Chapter 119, relating to public records.

447 3. Section 1003.03, relating to the maximum class size,  
 448 except that the calculation for compliance pursuant to s.  
 449 1003.03 shall be the average at the school level.

450 4. Section 1012.22(1)(c), relating to compensation and  
 451 salary schedules.

452 5. Section 1012.33(5), relating to workforce reductions.

453 6. Section 1012.335, relating to contracts with  
 454 instructional personnel hired on or after July 1, 2011.

455 7. Section 1012.34, relating to the substantive  
 456 requirements for performance evaluations for instructional  
 457 personnel and school administrators.

458 8. Section 1006.12, relating to safe-school officers.

459 9. Section 1006.07(7), relating to threat assessment teams.

460 10. Section 1006.07(9), relating to school ~~Environmental~~  
 461 safety incident reporting.

462 11. Section 1006.1493, relating to the Florida Safe Schools  
 463 Assessment Tool.

464 12. Section 1006.07(6)(c), relating to adopting an active

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465 assailant response plan.

466 13. Section 943.082(4)(b), relating to the mobile  
467 suspicious activity reporting tool.

468 14. Section 1012.584, relating to youth mental health  
469 awareness and assistance training.

470 15. Section 1006.07(4), relating to emergency drills and  
471 emergency procedures.

472 16. Section 1006.07(2)(n), relating to criteria for  
473 assigning a student to a civil citation or similar prearrest  
474 diversion program.

475 Section 8. Paragraph (r) is added to subsection (1) of  
476 section 1002.421, Florida Statutes to read:

477 1002.421 State school choice scholarship program  
478 accountability and oversight.—

479 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private  
480 school participating in an educational scholarship program  
481 established pursuant to this chapter must be a private school as  
482 defined in s. 1002.01(2) in this state, be registered, and be in  
483 compliance with all requirements of this section in addition to  
484 private school requirements outlined in s. 1002.42, specific  
485 requirements identified within respective scholarship program  
486 laws, and other provisions of Florida law that apply to private  
487 schools, and must:

488 (r) Comply with section 1006.07(2)(n), Florida Statutes.

489

490 The department shall suspend the payment of funds to a private  
491 school that knowingly fails to comply with this subsection, and  
492 shall prohibit the school from enrolling new scholarship  
493 students, for 1 fiscal year and until the school complies. If a

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494 private school fails to meet the requirements of this subsection  
495 or has consecutive years of material exceptions listed in the  
496 report required under paragraph (q), the commissioner may  
497 determine that the private school is ineligible to participate  
498 in a scholarship program.

499 Section 9. Paragraph (d) is added to subsection (2) of  
500 section 1003.5716, Florida Statutes, to read:

501 1003.5716 Transition to postsecondary education and career  
502 opportunities.—All students with disabilities who are 3 years of  
503 age to 21 years of age have the right to a free, appropriate  
504 public education. As used in this section, the term "IEP" means  
505 individual education plan.

506 (2) Beginning not later than the first IEP to be in effect  
507 when the student attains the age of 16, or younger if determined  
508 appropriate by the parent and the IEP team, the IEP must include  
509 the following statements that must be updated annually:

510 (d) A statement of post-high school performance  
511 expectations which includes a proposed transition plan that  
512 facilitates continuity of care and coordination of any  
513 behavioral health services needed to assist the student in  
514 reaching those expectations. The statement must also specify  
515 parent, student, and agency roles and responsibilities  
516 pertaining to the provision and funding of specified transition  
517 services, as applicable.

518 Section 10. Subsection (5) is added to section 1004.44,  
519 Florida Statutes, to read:

520 1004.44 Louis de la Parte Florida Mental Health Institute.—  
521 There is established the Louis de la Parte Florida Mental Health  
522 Institute within the University of South Florida.

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523 (5) In consultation with the Department of Children and  
 524 Families, the Department of Juvenile Justice, and the Department  
 525 of Education, the institute shall convene a workgroup of  
 526 practitioners and experts to review, evaluate, and provide  
 527 implementation guidance on the mental health-related findings  
 528 and recommendations of the Marjory Stoneman Douglas High School  
 529 Public Safety Commission, as approved in reports submitted  
 530 pursuant to s. 943.687. The workgroup shall analyze, evaluate,  
 531 and identify regulatory or legislative actions necessary to  
 532 facilitate implementation of each recommendation. By August 1,  
 533 2020, the institute shall submit to the Governor, the President  
 534 of the Senate, and the Speaker of the House of Representatives  
 535 an initial summary report of activities, specific policy and  
 536 budget recommendations, including draft legislation and  
 537 associated fiscal impact statements, and other information and  
 538 policy or administrative recommendations to improve the state's  
 539 mental health system of care. The institute must continue to  
 540 monitor commission activities and coordinate with agency  
 541 partners to advise them on implementation activities, and may  
 542 submit subsequent reports and recommendations on an annual basis  
 543 or as requested. This subsection shall expire July 1, 2024.

544 Section 11. Paragraph (a) of subsection (4), paragraph (a)  
 545 of subsection (6), paragraph (a) of subsection (7), and  
 546 subsection (9) of section 1006.07, Florida Statutes, are  
 547 amended, and paragraph (n) of subsection (2), paragraph (d) of  
 548 subsection (4), and subsection (10) are added to that section,  
 549 to read:

550 1006.07 District school board duties relating to student  
 551 discipline and school safety.—The district school board shall

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552 provide for the proper accounting for all students, for the  
 553 attendance and control of students at school, and for proper  
 554 attention to health, safety, and other matters relating to the  
 555 welfare of students, including:

556 (2) CODE OF STUDENT CONDUCT.—Adopt a code of student  
 557 conduct for elementary schools and a code of student conduct for  
 558 middle and high schools and distribute the appropriate code to  
 559 all teachers, school personnel, students, and parents, at the  
 560 beginning of every school year. Each code shall be organized and  
 561 written in language that is understandable to students and  
 562 parents and shall be discussed at the beginning of every school  
 563 year in student classes, school advisory council meetings, and  
 564 parent and teacher association or organization meetings. Each  
 565 code shall be based on the rules governing student conduct and  
 566 discipline adopted by the district school board and shall be  
 567 made available in the student handbook or similar publication.  
 568 Each code shall include, but is not limited to:

569 (n) Criteria for assigning a student to a civil citation or  
 570 similar prearrest diversion program that is an alternative to  
 571 expulsion or referral to law enforcement agencies. All civil  
 572 citation or similar prearrest diversion programs must comply  
 573 with s. 985.12.

574 (4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

575 (a) Formulate and prescribe policies and procedures, in  
 576 consultation with the appropriate public safety agencies, for  
 577 emergency drills and for actual emergencies, including, but not  
 578 limited to, fires, natural disasters, active shooter and hostage  
 579 situations, and bomb threats, for all students and faculty at  
 580 all public schools of the district ~~composed~~ comprised of grades

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581 K-12, pursuant to state board rule. Drills for active shooter  
 582 and hostage situations shall be conducted in accordance with  
 583 developmentally appropriate and age-appropriate procedures, as  
 584 specified in state board rules at least as often as other  
 585 emergency drills. Law enforcement officers responsible for  
 586 responding to the school in the event of an active assailant  
 587 emergency, as determined necessary by the sheriff in  
 588 coordination with the district's school safety specialist, must  
 589 be physically present on campus and directly involved in the  
 590 execution of active assailant emergency drills. District school  
 591 board policies shall include commonly used alarm system  
 592 responses for specific types of emergencies and verification by  
 593 each school that drills have been provided as required by law,  
 594 state board rule, and fire protection codes. The emergency  
 595 response policy shall identify the individuals responsible for  
 596 contacting the primary emergency response agency and the  
 597 emergency response agency that is responsible for notifying the  
 598 school district for each type of emergency. The state board  
 599 shall refer to recommendations provided in reports published  
 600 pursuant to s. 943.687 for guidance and, by August 1, 2020,  
 601 consult with state and local constituencies to adopt rules  
 602 applicable to the requirements of this subsection which, at a  
 603 minimum, define "emergency drill," "active threat," and "after-  
 604 action report," and must establish minimum emergency drill  
 605 policies and procedures related to the timing, frequency,  
 606 participation, training, notification, accommodations, and  
 607 responses to threat situations by incident type, school level,  
 608 school type, and student and school characteristics. Such rules  
 609 must require all types of emergency drills to be conducted no

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610 less frequently than on an annual school year basis.  
 611 (d) Consistent with subsection (10), as a component of  
 612 emergency procedures, each district school board and charter  
 613 school governing board must adopt, in coordination with local  
 614 law enforcement agencies, an emergency event family  
 615 reunification plan to reunite students and employees with their  
 616 families in the event of a mass casualty or other emergency  
 617 event situation.  
 618 (6) SAFETY AND SECURITY BEST PRACTICES.—Each district  
 619 school superintendent shall establish policies and procedures  
 620 for the prevention of violence on school grounds, including the  
 621 assessment of and intervention with individuals whose behavior  
 622 poses a threat to the safety of the school community.  
 623 (a) Each district school superintendent shall designate a  
 624 school safety specialist for the district. The school safety  
 625 specialist must be a school administrator employed by the school  
 626 district or a law enforcement officer employed by the sheriff's  
 627 office located in the school district. Any school safety  
 628 specialist designated from the sheriff's office must first be  
 629 authorized and approved by the sheriff employing the law  
 630 enforcement officer. Any school safety specialist designated  
 631 from the sheriff's office remains the employee of the office for  
 632 purposes of compensation, insurance, workers' compensation, and  
 633 other benefits authorized by law for a law enforcement officer  
 634 employed by the sheriff's office. The sheriff and the school  
 635 superintendent may determine by agreement the reimbursement for  
 636 such costs, or may share the costs, associated with employment  
 637 of the law enforcement officer as a school safety specialist.  
 638 The school safety specialist must earn a certificate of

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639 completion of the school safety specialist training provided by  
 640 the Office of Safe Schools within 1 year after appointment and  
 641 is responsible for the supervision and oversight for all school  
 642 safety and security personnel, policies, and procedures in the  
 643 school district. The school safety specialist shall:

644 1. Review school district policies and procedures for  
 645 compliance with state law and rules, including the district's  
 646 timely and accurate submission of school ~~environmental~~ safety  
 647 incident reports to the department pursuant to s. 1001.212(8).

648 2. Provide the necessary training and resources to students  
 649 and school district staff in matters relating to youth mental  
 650 health awareness and assistance; emergency procedures, including  
 651 active shooter training; and school safety and security.

652 3. Serve as the school district liaison with local public  
 653 safety agencies and national, state, and community agencies and  
 654 organizations in matters of school safety and security.

655 4. In collaboration with the appropriate public safety  
 656 agencies, as that term is defined in s. 365.171, by October 1 of  
 657 each year, conduct a school security risk assessment at each  
 658 public school using the Florida Safe Schools Assessment Tool  
 659 developed by the Office of Safe Schools pursuant to s.  
 660 1006.1493. Based on the assessment findings, the district's  
 661 school safety specialist shall provide recommendations to the  
 662 district school superintendent and the district school board  
 663 which identify strategies and activities that the district  
 664 school board should implement in order to address the findings  
 665 and improve school safety and security. Each district school  
 666 board must receive such findings and the school safety  
 667 specialist's recommendations at a publicly noticed district

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668 school board meeting to provide the public an opportunity to  
 669 hear the district school board members discuss and take action  
 670 on the findings and recommendations. Each school safety  
 671 specialist shall report such findings and school board action to  
 672 the Office of Safe Schools within 30 days after the district  
 673 school board meeting.

674 (7) THREAT ASSESSMENT TEAMS.—Each district school board  
 675 shall adopt policies for the establishment of threat assessment  
 676 teams at each school whose duties include the coordination of  
 677 resources and assessment and intervention with individuals whose  
 678 behavior may pose a threat to the safety of school staff or  
 679 students consistent with the model policies developed by the  
 680 Office of Safe Schools. Such policies must include procedures  
 681 for referrals to mental health services identified by the school  
 682 district pursuant to s. 1012.584(4), when appropriate, and  
 683 procedures for behavioral threat assessments in compliance with  
 684 the instrument developed pursuant to s. 1001.212(12).

685 (a) A threat assessment team shall include a sworn law  
 686 enforcement officer who has undergone threat assessment training  
 687 identified by the Office of Safe Schools pursuant to s.  
 688 1001.212, and persons with expertise in counseling, instruction,  
 689 and school administration, and law enforcement. All required  
 690 members of the threat assessment team must be involved in the  
 691 threat assessment process, from start to finish, including the  
 692 determination of the final disposition decision. The threat  
 693 assessment teams shall identify members of the school community  
 694 to whom threatening behavior should be reported and provide  
 695 guidance to students, faculty, and staff regarding recognition  
 696 of threatening or aberrant behavior that may represent a threat



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697 to the community, school, or self. Upon the availability of the  
698 behavioral threat assessment instrument developed pursuant to s.  
699 1001.212(12), the threat assessment team shall use that  
700 instrument.

701 (9) SCHOOL ~~ENVIRONMENTAL~~ SAFETY INCIDENT REPORTING.—Each  
702 district school board shall adopt policies to ensure the  
703 accurate and timely reporting of incidents related to school  
704 safety and discipline. For purposes of s. 1001.212(8) and this  
705 subsection, incidents related to school safety and discipline  
706 include incidents reported pursuant to ss. 1006.09, 1006.13,  
707 1006.135, 1006.147, and 1006.148. The district school  
708 superintendent is responsible for school ~~environmental~~ safety  
709 incident reporting. A district school superintendent who fails  
710 to comply with this subsection is subject to the penalties  
711 specified in law, including, but not limited to, s.  
712 1001.42(13)(b) or s. 1001.51(12)(b), as applicable. The State  
713 Board of Education shall adopt rules establishing ~~the~~  
714 requirements for ~~the school environmental~~ safety incident  
715 reporting report.

716 (10) EMERGENCY EVENT FAMILY REUNIFICATION POLICIES AND  
717 PLANS.—By August 1, 2021, each district school board shall adopt  
718 a school district emergency event family reunification policy  
719 establishing elements and requirements for a school district  
720 emergency event family reunification plan and individual school-  
721 based emergency event family reunification plans for the purpose  
722 of reuniting students and employees with their families in the  
723 event of a mass casualty or other emergency event situation.

724 (a) School district policies and plans must be coordinated  
725 with the county sheriff and local law enforcement. School-based

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726 plans must be consistent with school board policy and the school  
727 district plan. The school board is encouraged to apply model  
728 mass casualty death notification and reunification policies and  
729 practices referenced in reports published pursuant to s. 943.687  
730 and as developed by the Office of Safe Schools.

731 (b) Minimally, plans must identify potential reunification  
732 sites and ensure a unified command at each site, identify  
733 equipment needs, provide multiple methods of communication with  
734 family members of students and staff, address training for  
735 employees, and provide multiple methods to aid law enforcement  
736 in identification of students and staff, including written  
737 backup documents.

738 Section 12. Subsection (6) of section 1006.09, Florida  
739 Statutes, is amended to read:

740 1006.09 Duties of school principal relating to student  
741 discipline and school safety.—

742 (6) Each school principal must ensure that standardized  
743 forms prescribed by rule of the State Board of Education are  
744 used to report data concerning school safety and discipline to  
745 the department through the School Environmental Safety Incident  
746 Reporting (SESIR) System. The school principal must develop a  
747 plan to verify the accuracy of reported incidents.

748 Section 13. Section 1006.12, Florida Statutes, is amended  
749 to read:

750 1006.12 Safe-school officers at each public school.—For the  
751 protection and safety of school personnel, property, students,  
752 and visitors, each district school board and district school  
753 superintendent school district superintendent shall partner with  
754 law enforcement agencies or security agencies to establish or

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755 assign one or more safe-school officers at each school facility  
 756 within the district, including charter schools. A district  
 757 school board must collaborate with charter school governing  
 758 boards to facilitate charter school access to all safe-school  
 759 officer options available under this section. The school  
 760 district may implement one or more ~~any combination~~ of the  
 761 options specified in subsections (1)-(4) to best meet the needs  
 762 of the school district and charter schools.

763 (1) SWORN LAW ENFORCEMENT SCHOOL RESOURCE OFFICER.—A school  
 764 district may establish school resource officer programs through  
 765 a cooperative agreement with law enforcement agencies.

766 (a) Sworn law enforcement school resource officers shall  
 767 undergo criminal background checks, drug testing, and a  
 768 psychological evaluation and be certified law enforcement  
 769 officers, as defined in s. 943.10(1), who are employed by a law  
 770 enforcement agency as defined in s. 943.10(4). The powers and  
 771 duties of a law enforcement officer shall continue throughout  
 772 the employee's tenure as a sworn law enforcement school resource  
 773 officer.

774 (b) Sworn law enforcement school resource officers shall  
 775 abide by district school board policies and shall consult with  
 776 and coordinate activities through the school principal, but  
 777 shall be responsible to the law enforcement agency in all  
 778 matters relating to employment, subject to agreements between a  
 779 district school board and a law enforcement agency. Activities  
 780 conducted by the sworn law enforcement school resource officer  
 781 which are part of the regular instructional program of the  
 782 school shall be under the direction of the school principal.

783 (c) Sworn law enforcement school resource officers shall

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784 complete mental health crisis intervention training using a  
 785 curriculum developed by a national organization with expertise  
 786 in mental health crisis intervention. The training shall improve  
 787 officers' knowledge and skills as first responders to incidents  
 788 involving students with emotional disturbance or mental illness,  
 789 including de-escalation skills to ensure student and officer  
 790 safety.

791 (2) SWORN LAW ENFORCEMENT SCHOOL SAFETY OFFICER.—A school  
 792 district may commission one or more sworn law enforcement school  
 793 safety officers for the protection and safety of school  
 794 personnel, property, and students within the school district.  
 795 The district school superintendent may recommend, and the  
 796 district school board may appoint, one or more sworn law  
 797 enforcement school safety officers.

798 (a) Sworn law enforcement school safety officers shall  
 799 undergo criminal background checks, drug testing, and a  
 800 psychological evaluation and be law enforcement officers, as  
 801 defined in s. 943.10(1), certified under ~~the provisions of~~  
 802 chapter 943 and employed by either a law enforcement agency or  
 803 by the district school board. If the officer is employed by the  
 804 district school board, the district school board is the  
 805 employing agency for purposes of chapter 943, and must comply  
 806 with ~~the provisions of~~ that chapter.

807 (b) A sworn law enforcement school safety officer has and  
 808 shall exercise the power to make arrests for violations of law  
 809 on district school board property or on property owned or leased  
 810 by a charter school under the charter contract, as applicable,  
 811 and to arrest persons, whether on or off such property, who  
 812 violate any law on such property under the same conditions that

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813 deputy sheriffs are authorized to make arrests. A sworn law  
814 enforcement school safety officer has the authority to carry  
815 weapons when performing his or her official duties.

816 (c) A district school board may enter into mutual aid  
817 agreements with one or more law enforcement agencies as provided  
818 in chapter 23. A sworn law enforcement school safety officer's  
819 salary may be paid jointly by the district school board and the  
820 law enforcement agency, as mutually agreed to.

821 (d) Sworn law enforcement school safety officers shall  
822 complete mental health crisis intervention training using a  
823 curriculum developed by a national organization with expertise  
824 in mental health crisis intervention. The training must improve  
825 officers' knowledge and skills as first responders to incidents  
826 involving students with emotional disturbance or mental illness,  
827 including de-escalation skills to ensure student and officer  
828 safety.

829 (3) FEIS GUARDIAN PROGRAM CERTIFIED SCHOOL GUARDIAN.—At the  
830 school district's or the charter school governing board's  
831 discretion, as applicable, pursuant to s. 30.15, a school  
832 district or charter school governing board may participate in  
833 the Coach Aaron Feis Guardian Program to meet the requirement of  
834 establishing a safe-school officer. The following individuals  
835 may serve as a Feis guardian program certified school guardian,  
836 in support of school-sanctioned activities for purposes of s.  
837 790.115, upon satisfactory completion of the requirements under  
838 s. 30.15(1)(k) and certification by a sheriff:

839 (a) A school district employee or personnel, as defined  
840 under s. 1012.01, or a charter school employee, as provided  
841 under s. 1002.33(12)(a), who volunteers to serve as a Feis

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842 guardian program certified school guardian in addition to his or  
843 her official job duties; or

844 (b) An employee of a school district or a charter school  
845 who is hired for the specific purpose of serving as a Feis  
846 guardian program certified school guardian.

847 (4) FEIS GUARDIAN PROGRAM CERTIFIED SCHOOL SECURITY GUARD.—  
848 A school district or charter school governing board may contract  
849 with a security agency as defined in s. 493.6101(18) to employ  
850 as a Feis guardian program certified school security guard an  
851 individual who holds a Class "D" and Class "G" license pursuant  
852 to chapter 493, provided the following training and contractual  
853 conditions are met:

854 (a) An individual who serves as a Feis guardian program  
855 certified school security guard, for purposes of satisfying the  
856 requirements of this section, must:

857 1. Demonstrate satisfactory completion of all training  
858 program requirements of the Coach Aaron Feis Guardian Program,  
859 as provided and certified by a county sheriff, 144 hours of  
860 required training pursuant to s. 30.15(1)(k)2.

861 2. Submit to and pass a psychological evaluation  
862 administered by a licensed professional psychologist licensed  
863 under chapter 490 and designated by the Department of Law  
864 Enforcement and submit the results of the evaluation to the  
865 sheriff's office, ~~school district, or charter school governing~~  
866 ~~board, as applicable. The sheriff's office must review and~~  
867 approve the results of each applicant's psychological evaluation  
868 before accepting the applicant into the Feis guardian program.

869 The Department of Law Enforcement is authorized to provide the  
870 sheriff's office, ~~school district, or charter school governing~~

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871 ~~board~~ with mental health and substance abuse data for compliance  
872 with this paragraph.

873 3. Submit to and pass an initial drug test and subsequent  
874 random drug tests in accordance with the requirements of s.  
875 112.0455 and the sheriff's office, ~~school district, or charter~~  
876 ~~school governing board, as applicable. The sheriff's office must~~  
877 review and approve the results of each applicant's drug tests  
878 before accepting the applicant into the Feis guardian program.

879 4. Successfully complete ongoing training, weapon  
880 inspection, and firearm qualification on at least an annual  
881 basis, as required by the sheriff's office and provide  
882 documentation to the sheriff's office, school district, or  
883 charter school governing board, as applicable.

884 (b) The contract between a security agency and a school  
885 district or a charter school governing board regarding  
886 requirements applicable to Feis guardian program certified  
887 school security guards serving in the capacity of a safe-school  
888 officer for purposes of satisfying the requirements of this  
889 section shall define the county sheriff or sheriffs ~~entity or~~  
890 entities responsible for Feis guardian program training and the  
891 responsibilities for maintaining records relating to training,  
892 inspection, and firearm qualification; and define conditions,  
893 requirements, costs, and responsibilities necessary to satisfy  
894 the background screening requirements of paragraph (d).

895 (c) Feis guardian program certified school security guards  
896 serving in the capacity of a safe-school officer pursuant to  
897 this subsection are in support of school-sanctioned activities  
898 for purposes of s. 790.115, and must aid in the prevention or  
899 abatement of active assailant incidents on school premises.

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900 (d) A Feis guardian program certified school security guard  
901 serving in the capacity of a safe-school officer pursuant to  
902 this subsection is considered to be a "noninstructional  
903 contractor" subject to the background screening requirements of  
904 ss. 1012.465 and 1012.467, as they apply to each applicable  
905 school district or charter school, and these requirements must  
906 be satisfied before the Feis guardian program certified school  
907 security guard is given access to school grounds.

908 (5) NOTIFICATION.—The school district superintendent or  
909 charter school administrator shall notify the county sheriff and  
910 the Office of Safe Schools immediately after, but no later than  
911 72 hours after:

912 (a) A safe-school officer is dismissed for misconduct or is  
913 otherwise disciplined.

914 (b) A safe-school officer discharges his or her firearm in  
915 the exercise of the safe-school officer's duties, other than for  
916 training purposes.

917 (6) EXEMPTION.—Any information that would identify whether  
918 a particular individual has been appointed as a safe-school  
919 officer pursuant to this section held by a law enforcement  
920 agency, school district, or charter school is exempt from s.  
921 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
922 subsection is subject to the Open Government Sunset Review Act  
923 in accordance with s. 119.15 and shall stand repealed on October  
924 2, 2023, unless reviewed and saved from repeal through  
925 reenactment by the Legislature.

926  
927 If a district school board, through its adopted policies,  
928 procedures, or actions, denies a charter school access to any

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929 safe-school officer options pursuant to this section, the school  
930 district must assign a sworn law enforcement school resource  
931 officer or sworn law enforcement school safety officer to the  
932 charter school. Under such circumstances, the charter school's  
933 share of the costs of the sworn law enforcement school resource  
934 officer or sworn law enforcement school safety officer may not  
935 exceed the safe school allocation funds provided to the charter  
936 school pursuant to s. 1011.62(15) and shall be retained by the  
937 school district.

938 Section 14. Subsection (3) of section 1006.13, Florida  
939 Statutes, is amended to read:

940 1006.13 Policy of zero tolerance for crime and  
941 victimization.—

942 (3) Zero-tolerance policies must require students found to  
943 have committed one of the following offenses to be expelled,  
944 with or without continuing educational services, from the  
945 student's regular school for a period of not less than 1 full  
946 year, and to be referred to the criminal justice or juvenile  
947 justice system.

948 (a) Bringing a firearm or weapon, as defined in chapter  
949 790, to school, to any school function, or onto any school-  
950 sponsored transportation or possessing a firearm at school.

951 (b) Making a threat or false report, as defined by ss.  
952 790.162 and 790.163, respectively, involving school or school  
953 personnel's property, school transportation, or a school-  
954 sponsored activity.

955  
956 District school boards may assign the student to a school-based  
957 diversion program pursuant to s. 985.12 disciplinary program for

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958 the purpose of continuing educational services during the period  
959 of expulsion. District school superintendents may consider the  
960 1-year expulsion requirement on a case-by-case basis and request  
961 the district school board to modify the requirement by assigning  
962 the student to a school-based diversion program pursuant to s.  
963 985.12 disciplinary program or second chance school if the  
964 request for modification is in writing and it is determined to  
965 be in the best interest of the student and the school system. If  
966 a student committing any of the offenses in this subsection is a  
967 student who has a disability, the district school board shall  
968 comply with applicable State Board of Education rules.

969 Section 15. Paragraph (a) of subsection (2) of section  
970 1006.1493, Florida Statutes, is amended to read:

971 1006.1493 Florida Safe Schools Assessment Tool.—

972 (2) The FSSAT must help school officials identify threats,  
973 vulnerabilities, and appropriate safety controls for the schools  
974 that they supervise, pursuant to the security risk assessment  
975 requirements of s. 1006.07(6).

976 (a) At a minimum, the FSSAT must address all of the  
977 following components:

- 978 1. School emergency and crisis preparedness planning;
- 979 2. Security, crime, and violence prevention policies and  
980 procedures;
- 981 3. Physical security measures;
- 982 4. Professional development training needs;
- 983 5. An examination of support service roles in school  
984 safety, security, and emergency planning;
- 985 6. School security and school police staffing, operational  
986 practices, and related services;

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987 7. School and community collaboration on school safety; ~~and~~  
 988 8. A return on investment analysis of the recommended  
 989 physical security controls ~~and~~;

990 9. Policies and procedures to prepare for and respond to  
 991 natural or manmade disasters or emergencies, including plans to  
 992 reunite students and employees with families after a school is  
 993 closed or unexpectedly evacuated due to such disasters or  
 994 emergencies.

995 Section 16. Effective July 1, 2020, subsection (16) of  
 996 section 1011.62, Florida Statutes, is amended to read:

997 1011.62 Funds for operation of schools.—If the annual  
 998 allocation from the Florida Education Finance Program to each  
 999 district for operation of schools is not determined in the  
 1000 annual appropriations act or the substantive bill implementing  
 1001 the annual appropriations act, it shall be determined as  
 1002 follows:

1003 (16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health  
 1004 assistance allocation is created to provide funding to assist  
 1005 school districts in establishing or expanding school-based  
 1006 mental health care; train educators and other school staff in  
 1007 detecting and responding to mental health issues; and connect  
 1008 children, youth, and families who may experience behavioral  
 1009 health issues with appropriate services. These funds shall be  
 1010 allocated annually in the General Appropriations Act or other  
 1011 law to each eligible school district. Each school district shall  
 1012 receive a minimum of \$100,000, with the remaining balance  
 1013 allocated based on each school district's proportionate share of  
 1014 the state's total unweighted full-time equivalent student  
 1015 enrollment. Charter schools that submit a plan separate from the

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1016 school district are entitled to a proportionate share of  
 1017 district funding. The allocated funds may not supplant funds  
 1018 that are provided for this purpose from other operating funds  
 1019 and may not be used to increase salaries or provide bonuses.  
 1020 School districts are encouraged to maximize third-party health  
 1021 insurance benefits and Medicaid claiming for services, where  
 1022 appropriate.

1023 (a) Before the distribution of the allocation:

1024 1. The school district shall ~~must~~ develop and submit a  
 1025 detailed plan outlining the local program and planned  
 1026 expenditures to the district school board for approval. The ~~This~~  
 1027 plan, which must include input from school and community  
 1028 stakeholders, applies to all district schools, including charter  
 1029 schools, unless a charter school elects to submit a plan  
 1030 independently from the school district pursuant to subparagraph  
 1031 2.

1032 2. A charter school may develop and submit a detailed plan  
 1033 outlining the local program and planned expenditures to its  
 1034 governing body for approval. After the plan is approved by the  
 1035 governing body, it must be provided to the charter school's  
 1036 sponsor.

1037 (b) The plans required under paragraph (a) must be focused  
 1038 on a multitiered system of supports to deliver evidence-based  
 1039 mental health care assessment, diagnosis, intervention,  
 1040 treatment, and recovery services to students with one or more  
 1041 mental health or co-occurring substance abuse diagnoses and to  
 1042 students at high risk of such diagnoses. The provision of these  
 1043 services must be coordinated with a student's primary mental  
 1044 health care provider and with other mental health providers

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1045 involved in the student's care. At a minimum, the plans must  
1046 include the following elements:

1047 1. Direct employment of school-based mental health services  
1048 providers to expand and enhance school-based student services  
1049 and to reduce the ratio of students to staff in order to better  
1050 align with nationally recommended ratio models. These providers  
1051 include, but are not limited to, certified school counselors,  
1052 school psychologists, school social workers, and other licensed  
1053 mental health professionals. The plan also must establish  
1054 ~~identify~~ strategies to increase the amount of time that school-  
1055 based student services personnel spend providing direct services  
1056 to students, which may include the review and revision of  
1057 district staffing resource allocations based on school or  
1058 student mental health assistance needs.

1059 2. Contracts or interagency agreements with one or more  
1060 local community behavioral health providers or providers of  
1061 Community Action Team services to provide a behavioral health  
1062 staff presence and services at district schools. Services may  
1063 include, but are not limited to, mental health screenings and  
1064 assessments, individual counseling, family counseling, group  
1065 counseling, psychiatric or psychological services, trauma-  
1066 informed care, mobile crisis services, and behavior  
1067 modification. These behavioral health services may be provided  
1068 on or off the school campus and may be supplemented by  
1069 telehealth.

1070 3. Policies and procedures, including contracts with  
1071 service providers, which will ensure that students who are  
1072 referred to a school-based or community-based mental health  
1073 service provider for mental health screening for the

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1074 identification of mental health concerns and ensure that the  
1075 assessment of students at risk for mental health disorders  
1076 occurs within 15 days of referral. School-based mental health  
1077 services must be initiated within 15 days after identification  
1078 and assessment, and support by community-based mental health  
1079 service providers for students who are referred for community-  
1080 based mental health services must be initiated within 30 days  
1081 after the school or district makes a referral.

1082 4. Mental health policies and procedures that implement and  
1083 support all of the following elements:

1084 a. Universal supports to promote psychological well-being  
1085 and safe and supportive environments.

1086 b. Evidence-based strategies or programs to reduce the  
1087 likelihood of at-risk students developing social, emotional, or  
1088 behavioral health problems, depression, anxiety disorders,  
1089 suicidal tendencies, or substance use disorders.

1090 c. ~~5.~~ Strategies to improve the early identification of  
1091 social, emotional, or behavioral problems or substance use  
1092 disorders; ~~provide, to improve the provision of~~ early  
1093 intervention services; ~~7~~ and ~~to~~ assist students in dealing with  
1094 trauma and violence.

1095 d. Methods for responding to a student with suicidal  
1096 ideation, including training in suicide risk assessment and the  
1097 use of suicide awareness, prevention, and screening instruments  
1098 developed under s. 1012.583; adoption of guidelines for  
1099 informing parents of suicide risk; and implementation of board  
1100 policies for initiating involuntary examination of students at  
1101 risk of suicide.

1102 e. A school crisis response plan that includes strategies

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1103 for the prevention of, preparation for, response to, and  
 1104 recovery from a range of school crises. The plan must establish  
 1105 or coordinate the implementation of district-level and school-  
 1106 level crisis response teams whose membership includes, but is  
 1107 not limited to, representatives of school administration and  
 1108 school-based mental health service providers.

1109 (c) School districts shall submit approved plans, including  
 1110 approved plans of each charter school in the district, to the  
 1111 commissioner by August 1 of each fiscal year.

1112 (d) ~~By September 30 of each year Beginning September 30,~~  
 1113 ~~2019, and annually by September 30 thereafter,~~ each school  
 1114 district shall submit its district report to the department. By  
 1115 November 1 of each year, the department shall submit a state  
 1116 summary report to the Governor, the President of the Senate, and  
 1117 the Speaker of the House of Representatives on Department of  
 1118 Education a report on its program outcomes and expenditures for  
 1119 the previous fiscal year. The school district report must  
 1120 include program outcomes and expenditures for all public schools  
 1121 in the district, including charter schools that submitted a  
 1122 separate plan. At a minimum, the district and state reports also  
 1123 must that, at a minimum, must include school district-level and  
 1124 school-level, including charter schools, information, including  
 1125 multiple-year trend data, when available, for each of the number  
 1126 of each of the following indicators:

1127 1. The number of students who receive screenings or  
 1128 assessments.

1129 2. The number of students who are referred to either  
 1130 school-based or community-based providers for services or  
 1131 assistance.

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1132 3. The number of students who receive either school-based  
 1133 or community-based interventions, services, or assistance.

1134 4. The number of school-based and community-based mental  
 1135 health providers, including licensure type, paid for from funds  
 1136 provided through the allocation.

1137 5. The number and ratio to students of school social  
 1138 workers, school psychologists, and certified school counselors  
 1139 employed by the district or charter school and the total number  
 1140 of licensed mental health professionals directly employed by the  
 1141 district or charter school.

1142 6. Contract-based collaborative efforts or partnerships  
 1143 with community mental health programs, agencies, or providers.

1144 Section 17. Except as otherwise expressly provided in this  
 1145 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 Swanson

Job Title Deputy Chief of Staff

Address 345 W Gaines St.

Phone 850 021 2586

Street

Tallahassee

City

FL

State

32309

Zip

Email Bethany.Swanson@FLDOE.CK

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

USD SCHOOL SAFETY

Amendment Barcode (if applicable)

Name

CHRISTIAN CAVALERA

Job Title

Address

8585 SW 124 AVE

Phone

305 214 6208

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MIAMI FL 33183

Email

CHRISTIAN@CHAUSERCONSULTANTSFL.COM

City

State

Zip

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.

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)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Greg Pound

Job Title \_\_\_\_\_

Address 9166 Sunrise Dr

Phone \_\_\_\_\_

Street

Largo

FL

33773

Email \_\_\_\_\_

City

State

Zip

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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SPB 7066  
INTRODUCER: Appropriations Committee  
SUBJECT: Licensure Fees  
DATE: February 21, 2020      REVISED: \_\_\_\_\_

---

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. McKnight	Kynoch		<b>AP Submitted as Comm. Bill/Fav</b>

---

**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.<sup>1</sup> 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:<sup>2</sup>

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;

---

<sup>1</sup> Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.

<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup>

### **Health Care Clinics**

The Health Care Clinic Act<sup>5</sup> provides the Agency for Health Care Administration (AHCA) with licensing and regulatory authority to provide standards and oversight for health care clinics.<sup>6</sup> 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.<sup>7</sup> 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:

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<sup>3</sup> Fla. Const. art. VII, s. 19(e).

<sup>4</sup> Fla. Const. art. VII s. 19(c).

<sup>5</sup> Part X of ch. 400, F.S.

<sup>6</sup> Section 400.990, F.S.

<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup>

**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.

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<sup>8</sup> Agency for Health Care Administration, CS/SB 512 Bill Analysis (Feb. 14, 2020) (on file with the Senate Committee on Appropriations).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*



B. Amendments:

None.

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

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FOR CONSIDERATION By the Committee on Appropriations

576-03781A-20

20207066pb

1                           A bill to be entitled  
2       An act relating to licensure fees; amending s.  
3       381.06017, F.S.; requiring certain nonembryonic stem  
4       cell banks to pay specified fees; providing a  
5       contingent effective date.

6  
7       Be It Enacted by the Legislature of the State of Florida:

8  
9           Section 1. Paragraph (j) is added to subsection (2) of  
10       section 381.06017, Florida Statutes, as created by SB 512, to  
11       read:

12           381.06017 Nonembryonic stem cell banks; collection,  
13       manufacturing, storage, dispensing, and use of human  
14       nonembryonic stem cells.—

15           (2) DUTIES AND REGISTRATION.—A nonembryonic stem cell bank  
16       that advertises, collects, stores, manufactures, dispenses,  
17       compounds, uses, or purports to use nonembryonic stem cells or  
18       products containing nonembryonic stem cells is deemed a clinic  
19       as defined in s. 400.9905 and must comply with all of the  
20       following requirements:

21           (j) Pay all fees associated with health care clinic  
22       licensure, registration, and inspection under part X of chapter  
23       400 and part II of chapter 408.

24           Section 2. This act shall take effect on the same date that  
25       SB 512 or similar legislation takes effect, if such legislation  
26       is adopted in the same legislative session or an extension  
27       thereof and becomes a law.



# 2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

<u>BILL INFORMATION</u>	
<b>BILL NUMBER:</b>	SB 512
<b>BILL TITLE:</b>	Nonembryonic Stem Cells
<b>BILL SPONSOR:</b>	Senator Travis Hutson
<b>EFFECTIVE DATE:</b>	July 1, 2020

<u>COMMITTEES OF REFERENCE</u>
1) Health Policy
2) Appropriations
3) Rules
4)
5)

<u>CURRENT COMMITTEE</u>
Health Policy

<u>SIMILAR BILLS</u>	
<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A

<u>PREVIOUS LEGISLATION</u>	
<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A
<b>YEAR:</b>	N/A
<b>LAST ACTION:</b>	N/A

<u>IDENTICAL BILLS</u>	
<b>BILL NUMBER:</b>	HB 313
<b>SPONSOR:</b>	Representative Byron Donalds

<b>Is this bill part of an agency package?</b>
Y ___ N ___ X_

<u>BILL ANALYSIS INFORMATION</u>	
<b>DATE OF ANALYSIS:</b>	
<b>LEAD AGENCY ANALYST:</b>	Jack Plagge, Ruby Grantham, Noel Lawrence
<b>ADDITIONAL ANALYST(S):</b>	Ferronda Burke, Jessica Munn
<b>LEGAL ANALYST:</b>	
<b>FISCAL ANALYST:</b>	

## 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.<sup>1</sup>

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.<sup>2,3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

<sup>1</sup> 21 C.F.R. 1271.3(d).

<sup>2</sup> <https://www.mayoclinic.org/tests-procedures/autologous-stem-cell-transplant/pyc-20384859>

<sup>3</sup> <https://www.mayoclinic.org/tests-procedures/allogeneic-stem-cell-transplant/pyc-20384863>

<sup>4</sup> 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

<sup>5</sup> 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:<sup>6</sup>

- 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

Stem cells for clinical use are currently procured from living donors only, limiting the number of available products.<sup>10</sup> 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.<sup>11</sup>

### **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.],

<sup>6</sup> 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

<sup>7</sup> 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

<sup>8</sup> 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

<sup>9</sup> 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

<sup>10</sup> 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

<sup>11</sup> 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<sup>12</sup>, F.S. contains provisions for the donation and procurement of human organs and tissues. Procurement is defined in section 765.511<sup>13</sup>, 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

- 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.

<b>NSCB Licensure Requirements</b>	<b>Current Health Care Clinic Requirement</b>
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

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**FISCAL ANALYSIS**

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**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
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**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:	<p>Application processing: The Agency assigned 5 FTE (Health Services &amp; 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.</p> <p>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).</p>
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)
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**Non-Recurring Impact:**

<b>Expenditures:</b>					
<b>Expense (Agency Standard Expense Package)</b>					
Professional Staff	3.00	@	\$ 4,171	\$	12,513
Support Staff	0.00	@	3,741		-
<b>Total Non-Recurring Expense</b>	<b>3.00</b>			<b>\$</b>	<b>12,513</b>
<b>Operating Capital Outlay (Agency Standard Operating Capital Outlay Package)</b>					
Microsoft Surface Pro 7, case, keyboard, pen, portable printer	2	@	\$ 1,365	\$	2,730
-	-	@	-		-

<b>Total Operating Capital Outlay</b>	<b>\$ 2,730</b>
<b>Total Non-Recurring Expenditures</b>	<b>\$ 15,243</b>

**Recurring Impact:**

**Revenues:**

License Application Fee for 500 Facilities (\$2,000/facility)	\$ 500,000	\$ 500,000	\$ 500,000
-	-	-	-
-	-	-	-
-	-	-	-
<b>Total Recurring Revenues</b>	<b>\$ 500,000</b>	<b>\$ 500,000</b>	<b>\$ 500,000</b>

**Expenditures:**

Salaries	<u>Class Code</u>	<u>FTEs</u>	<u>Pay Grade</u>	<u>Rate</u>				
Health Services & Facility Consultant	5894	1.00	24	41,106	\$ 59,351	\$ 59,351	\$ 59,351	\$ 59,351
Health Facility Evaluator II	5620	1.00	21	34,634	50,007	50,007	50,007	50,007
Health Facility Evaluator II	5620	1.00	21	35,595	51,394	51,394	51,394	51,394
-				-	-	-	-	-
-				-	-	-	-	-
-				-	-	-	-	-
-				-	-	-	-	-
-				-	-	-	-	-
-				-	-	-	-	-
<b>Total Salary and Benefits</b>		<b>3.00</b>		<b>111,335</b>	<b>\$ 160,751</b>	<b>\$ 160,751</b>	<b>\$ 160,751</b>	<b>\$ 160,751</b>
<b>OPS</b>		<b><u>FTEs</u></b>						
-		0.00			\$ -	\$ -	\$ -	\$ -
-		0.00			-	-	-	-
-		0.00			-	-	-	-
-		0.00			-	-	-	-
<b>Total OPS</b>		<b>0.00</b>			<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Expenses</b>								
Professional Staff		3.00	@	\$ 6,004	\$ 18,012	\$ 18,012	\$ 18,012	\$ 18,012
Support Staff		0.00	@	5,107	-	-	-	-
Surveyor Travel					20,000	20,000	20,000	20,000
-					-	-	-	-
-					-	-	-	-
<b>Total Expenses</b>					<b>\$ 38,012</b>	<b>\$ 38,012</b>	<b>\$ 38,012</b>	<b>\$ 38,012</b>
<b>Human Resources Services</b>								
FTE Positions		3.00	@	\$ 329	\$ 987	\$ 987	\$ 987	\$ 987

OPS Positions	0.00	@	107	-	-	-
<b>Total Human Resources Services</b>				\$ 987	\$ 987	\$ 987
<b>Special Categories/Contracted Services</b>					\$	\$
-				\$ -	-	-
-				-	-	-
-				-	-	-
-				-	-	-
-				-	-	-
-				-	-	-
-				-	-	-
<b>Total Special Categories/Contracted Services</b>				\$ -	\$ -	\$ -
<b>Total Recurring Expenditures</b>				\$ 199,750	\$ 199,750	\$ 199,750

<b>Total Revenues and Expenditures:</b>						
Sub-Total Recurring Revenues				\$ 500,000	\$ 500,000	\$ 500,000
<b>Total Revenues</b>				\$ 500,000	\$ 500,000	\$ 500,000
Sub-Total Non-Recurring Expenditures				\$ 15,243	\$ -	\$ -
Sub-Total Recurring Expenditures				199,750	199,750	199,750
<b>Total Expenditures</b>				\$ 214,993	\$ 199,750	\$ 199,750
<b>Net Impact (Total Revenues minus Total Expenditures)</b>				\$ 285,007	\$ 300,250	\$ 300,250

<b>Net Impact (By Fund)</b>						
Health Care Trust Fund (2003)				\$ 285,007	\$ 300,250	\$ 300,250
-				-	-	-
-				-	-	-
-				-	-	-
<b>Net Impact (By Fund)</b>				\$ 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.
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**FEDERAL IMPACT**

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**1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y  N**

If yes, describe the anticipated impact including any fiscal impact.	NA
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**ADDITIONAL COMMENTS**

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<p>Recommend licensure as a tissue bank instead of a health care clinic.</p> <p>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.</p>
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**LEGAL – GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments:	
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# CourtSmart Tag Report

**Room:** KN 412  
**Caption:** Senate Appropriations Committee

**Case No.:**

**Type:**  
**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